

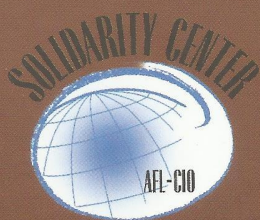
LABOUR RIGHTS IN PAKISTAN

In the Framework of the Country Constitution, National
Labour Legislation and International Labour Standards



A Handbook for CSOs on Media Outreach and
Highlighting Labour Issues.

M.S.Jamal and Aurangzaib Khan



IRADA

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LABOUR RIGHTS

IN

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FOREWORD

Labour rights are human rights and as all human rights, labour rights ensure dignity, equality and security that we all aspire to enjoy. One can see labour rights mirrored in every article of the Universal Declaration of Human Rights. But ask a common person about human rights and labour rights and the likelihood is, he or she would interpret it differently, if at all. Rights education and enforcement is a weak area in Pakistan: People accept all kinds of violations in our society quietly, without raising a voice, often because they are not aware of their rights, feel powerless to change or the provisions or avenues that exist to protect them and not available or inadequate. And as is the problem with national awareness and response to human rights issues, our awareness of labour rights – or the lack, thereof – ,too, is a factor of absence of platforms for social dialogue and public consensus on reform. Both of these, as we well know, are functions that media can and should provide. In the absence of rights education in our school system and awareness about legal, constitutional and international obligations that safeguard rights, it falls on media to create awareness about them.

Sensitive coverage of labour issues and rights requires a thorough understanding of the constitutional framework, national legislation and international standards that Pakistan has ratified and is committed to put in place. As events in recent years such as the fire in Ali Enterprises in Karachi, the Okara farms issue, bonded labour in brick kilns, to name just a few, makes it abundantly evident that the labour rights issues and the state's commitment to protect them needs to be reinforced at every level. This will ensure that labour rights, like all human rights, are treated as sacrosanct and inviolable as enshrined in the country's constitution.

This handbook seeks to do that. Produced by M.S.JAMAL, a former Member of National Industrial Relations Commission with vast experience of labour administration in the provincial setting and in the Federal Government, will be used to train journalists in quality reporting of labour rights. As Mr

Jamal holds the post- graduate degree in the Management of Industrial Relations from the University of Oxford (UK), he has been able to provide theoretical insights drawn from his specialised and comparative study of employee relations in the light of the work done by renowned authors. The handbook, published with support from the Solidarity Center (SC), will hopefully serve as a ready compendium and reference for all interested readers, including journalists. I hope his effort will bear fruit for wider use and application in sensitive coverage of labour issues.

Dated: 13.02.2014

Justice Raja Fayyaz Ahmed
Former Judge Supreme Court of Pakistan
Chairman
National Industrial Relations Commission
Islamabad

PREFACE

This handbook is meant to provide history, background material and context of labour rights and industrial relations in Pakistan to help build understanding of media professionals on these for better, in-depth reporting.

The legal meaning of labour rights, as espoused though law varies from country to country in terms of quantum, size and institutional mechanisms; labour rights in Pakistan have been discussed broadly in different perspectives, constitutional, legal, UN/ILO principles and paradigms. Union density, as well as strength, is declining in Pakistan with the same observation being made with regard to industrialized societies. Administrative, legislative and managerial controls are being liberalized and business preferences are atop for prioritization. This changing scenario has also led to number of issues. Theoretically, different approaches to industrial relations are advanced by commentators, but despite all criticism tripartism and human resource management (HRM) dominate the field today. The former based on pluralist perspective admits trade unions are an essential part of industrial relations whereas the latter is human relations - based is denial of conflict and does not encourage trade unionism. Tripartism, being the pith of the ILO system ever since it came into being in 1919, has largely been replicated and adopted as a mechanism for consultation amongst the three social partners of industrial relations to resolve national level labour-management issues. At workplace or plant level bi-partism is encouraged to grow in the form of bipartite management committees or works councils. Collective bargaining system takes precedence over isolated system of bipartite committees. Therefore the government by the CBA union leads to settle disputes with the management and develop by-laws in the form of collective bargaining agreements and settlements securing rights and benefits for the workers and helps bring enhanced productive through peaceful and positive industrial relations.

Labour courts in the provinces decide cases and determine matters of legal rights of individual workers. Their orders and decisions are appealable before the Labour Appellate Tribunal. The same powers have been vested in the in National Industrial Relations Commission (NIRC) to matters that relates to establishments in the Islamabad Capital Territory (ICT) and trans-provincial establishments. The NIRC also takes up matters concerning unfair labour practices on the part workers or their unions and employers or their associations. The system of seeking legal remedy is further integrated through High Court in writ jurisdiction and goes up to the apex court. The working of NIRC is so independent its full bench is competent to decide finally the appeal against the judgments of single benches.

For determination of cases relating to wages and payment of compensations respectively under the Payment of wages Act 1936 and Shops and Establishment Ordinance 1969 and the Workmen Compensation Act 1923 the courts of Authorities and of the Commissioner have been created.

Formation of unions by workers and employers is inherently their Constitutional and democratic right. For the sake of immunity against civil and criminal action unions of workers are registered with Registrars in the provinces as well as with the Registrar of Trade Unions, with the NIRC, depending upon the jurisdiction and territorial limits. Despite the system so in place, the percentage of unionised workers has not gone above 3% of the employed workforce. Devolution constitutional plan under the 18th amendment has decentralized the subject of labour, devolving labor laws to the provincial level, which can cause further fragmentation of trade union strength and collective bargaining system resulting in weak industrial relations network.

There are numerous labour enactments on the existing labour laws list. In order to ensure the enforcement of these laws the offices of Chief Inspectors and Inspectors have been established. They are required to regularly inspect establishments and prosecute the defaulters. They also, by exercise of administrative authority, help the aggrieved workers to resolve their grievances. They are also empowered to lodge complaints in the court of competent jurisdiction. In this way they supplement the efforts of judicial forums in resolving disputed labour matters and so try to create industrial equilibrium and industrial peace.

Labour issues that have emerged due to free play of market forces, restructuring of industrial set up and liberalization of economy in the absence of a viable infrastructure of entrepreneurship, rising price hikes and inflationary trends are briefly summed up as described below:-

1. Low and unjust wages
2. Widening poverty gaps
3. Gender inequalities
4. Rising unemployment
5. Restructuring and privatization of viable and enduring action plan
6. Out-dated and inefficient inspection services
7. Expensive and protracted litigation being unaffordable for workers
8. Absence of comprehensive training system to meet the changing technologies

In view of the above one is forced to see into unforeseen future which could be predicted on the premises of the existing issues and changing technologies. The system is changing and ought to change. Efforts need to focus on prosperity and well-being of the people who should see a bright future suffering from no illusion.

PROLOGUE

Labour rights since the industrial revolution are an outcome of trade union movements everywhere whereas it was the denial of these rights that caused the workers to unite to launch a movement for rights. These include reduced work hours, provision of rest intervals and higher wages¹. Economic philosophies in terms of the doctrines of laissez faire, neo-laissez faire and state intervention² are designed to promote welfare of people. The Keynesian economic perspective has also played significant role in the domain of labour issues. The role played by industrial relations theorists has basically focused on the recognition and promotion of these rights. For example the work of Karl Marx, Webb, Flanders, Fox, Parson, Dunlop, Clegg, and many others played a significant role in creating realization for these rights and strengthened trade union movement for the protection and promotion of these rights.

Various theoretical approaches including System Theory, Frame of References in terms of unitary and pluralistic perspective, social action approach, and radical approach based on division into labour and capital, Human Resource Management Perspective, Employees Relation Strategy, etc. have been tested and tried. Later when the International Labour Organization came into being it opened new a chapter of labour rights, in the beginning focussing on issues of worker rights,

¹ MacIlroy John, 'Trade Unions in Britain Today', Manchester University Press: "Historically, they (trade Unions) came into being as a response to capitalism, a form of social and economic organization where owner of means of production is in private hands, where the object of production is the competitive pursuit of profit in a free market and where the majority, excluded from ownership of the means of production, are compelled to sell their labour power in order to live."

² Ibid pp 11-13 'The Welfare Compromise' and Keynesianism broke down because of a decay of 'traditional' values, an extension of workers' horizons and a consequent pressure on unions to maximise militancy to achieve higher, real wages. In response, new strategy of corporatism was adopted, according to which key interest groups; the trade unions and employers' organization are given a formal role in the formulation of economic and industrial policy. This doctrine was followed by policy of neo- laissez – faire, according to whose advocates, corporatism failed and it will fail if tried in future. The welfare compromise broke down because Keynesianism, the welfare state and nationalization involved state intervention which stoked inflation and inflated expectations. Supporters of neo- laissez – faire agree with the corporatists that main problem the state in industrial relations is the control of trade union power. This according to them can be optimally achieved not by increased, but by diminished state involvement. What makes the economy work efficiently is not the intervention of the state bureaucracies placating the excessive demands of trade unions but entrepreneurs pursuing profits unimpeded in an open market. The role of the state is to recant on its responsibility for the economic welfare of citizens and to liberate entrepreneurs from restriction and the market from regulation'.

restriction on the employment of women for nightshifts, rest intervals etc. Reducing work hours per day, a minimum age for employment, health and safety measures, definition and prohibition of forced labour and many similar subjects of basic consideration realigned labour issues with democratic concepts and political philosophies. Until 1944, it was believed that labour was commodity as postulated by Karl Marx. ILO in the Philadelphia Declaration reversed the theory. It clearly and categorically lay down that labour is not a commodity. Not only this it also postulated that freedom of expression and association are essential to sustained progress; poverty anywhere constitutes a danger to prosperity everywhere; war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted effort in which the representatives of workers and employers, enjoying equal status with those of the governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare. This was the year when the Second World War put an end to fascism and was about to come to an end, thereby giving rise to the concepts of welfare state and democratic institutions. ILO's core democratic Conventions C-87 (Freedom of Association) and C-98 (Collective Bargaining) were passed in the post –Second War era in the years 1948 and 1949.

ILO came into being in 1919 when the First World War had just ended. The ILO preamble reiterates that:

- Universal and lasting peace can be established only if it is based upon social justice.
- If conditions of labour exist involving such injustice, hardship and privation to large number of people as to produce unrest so great, peace and harmony of the world are imperilled. And an improvement of those conditions is urgently required, as for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment and under employment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, the organization of vocational and technical education and other measures.
- The failure of any nation to adopt human conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in other countries.

Both the World Wars in the wake of historical struggles waged by the labour class for recognition of their basic rights and needs and theoretical work done by economists and sociologists at different points of time thus played a significant role in redirecting societies to adjust themselves to the emerging challenges and needs of the developing technologies. What happened in England had produced an impact on the systems of countries under its influence i.e. in countries wherever British colonization took place. In this state of transformation, the need for passage of industrial

employment laws became inevitable. The mechanisms that were followed revolved around the those of state intervention and voluntarism. Now the focus in industrialized nations has gained ground on the concept of non-interventionism in terms of evolution of HRM and bipartite practices with minimum legislative intervention.

British common law being in favour of individual contract does not admit the formation of trade unions. In the wake of strong trade union movements in England, formation of trade unions was allowed by the Parliament by seeking immunity from English common law. Later on after the fall of Nazism it was realized that democratic institutions in the industrialized societies must be strengthened to check the autocratic system of government as practiced by Nazis. It therefore became political compulsion to strengthen trade unions in England to block the way of Nazis for times to come, though later on, strikes were considered as disease of British industry. In this background the Thatcher Government took drastic but incremental legislative measures to check the strike-ridden Britain to make the British industry thrive. This from their point of view was a desirable outcome. The Secretary of State for Employment, in their official publication, *Competitive Edge*, stated that the negative effects of conflict and division of labour had been overcome by resorting to workers involvement schemes and HRM practices. He admitted that the UK had come out of economic recession by new practices. P. B. Beaumont in his book, 'Change in Industrial Relations', comments:

"The 1980s have witnessed a wide range of alleged changes in industrial relations in Britain, such as the growth of non-union firms, trade union decline, the emergence of human resource management practices, and an increase in labour –management cooperation. As a result, there is increased controversy about how the industrial relation in the UK works today and how will do its basic path of development in the future,"

He further places the UK in a wider context by providing the facts and figures for other national systems, in particular making extensive reference to the developments and research in the USA.

This philosophy of English thought and action, also in the context of other national systems of employees' relations is witnessed even elsewhere, particularly in the curriculum of academic and research institutions of European countries.

A Brief Note on Labour Legislation in India by Babu Mathew on the Asian Monitor Resource Centre website draws the critical historical insight into the legislative frame work in words:

"The history of labour legislation in the sub-Continent of India and Pakistan naturally is interwoven into the history of British colonialism. Considerations of British political economy were naturally paramount in shaping some of these early laws. In the beginning it was difficult to get enough regular Indian workers to run British establishments and hence laws for indenturing workers became necessary. This was obviously labour legislation that strongly acted to protect the interests of British employers".

Pakistan, after independence on August 14, 1947, adopted all laws that were on the Indian Statute Book and ILO Conventions that were ratified by India before Partition stood ratified by Pakistan. The state of labour legislation, until the passage of 18th Constitutional Amendment on April 20, 2010, continued to be controlled by both the Federal and Provincial governments in the Concurrent Legislative List. The 18th Constitutional Amendment deleted the Concurrent Legislative List and devolved the power to the provinces to legislate exclusively in the labour field except that of item 32 of the Federal Legislative that refers to international conventions, treaties and agreements by the federal legislature.

Article 270 AA (6) of the Constitution of Islamic Republic of Pakistan reads as follows: -

“(6) Notwithstanding omission of the Concurrent Legislative List by the Constitution (Eighteenth Amendment) Act, 2010, all laws with respect to any of the matters enumerated in the said List (including Ordinances, Orders, rules, bye-laws, regulations and notifications and other legal instruments having the force of law) in force in Pakistan or any part thereof, or having extra-territorial operation, immediately before the commencement of the Constitution (Eighteenth Amendment) Act, 2010, shall continue to remain in force until altered, repealed or amended by the competent authority.

Article 270 AA (8) of the Constitution of Islamic Republic of Pakistan reads as follows: -

“(8) On the omission of the Concurrent Legislative List, the process of devolution of the matters mentioned in the said List to the Provinces shall be completed by the thirtieth day of June, two thousands and eleven.”

INTERPRETATION: These provisions show that the application of the existing Federal Labour Laws ipso facto will not cease to exist unless repealed by an Amending Ordinance or Act of the Assembly.

Article 268 of the Constitution further substantiates this position:

“268. Continuance in force, and adaptation, of certain laws. – (1) Except as provided by this Article, all existing laws shall , subject to the Constitution,

continue in force, so far as applicable and with necessary adaptations, until altered, repealed or amended by the appropriate Legislature.

The Provincial Governments, subject to the situations and ground realities prevailing in the provinces are believed to undertake legislative process to provincialize the existing Federal Labour Laws. However, all the four provinces have enacted their law on Industrial Relations whereas the Federal Government on the strength of ILO Conventions 87 on Freedom of Association and ILO Conventions 98 on Collective Bargaining ratified by Pakistan have legislated the Industrial Relations Act 2012 to deal with matters of industrial relations in establishments in Islamabad Capital Territory and in trans-provincial establishments. Its main feature is the creation of the National Industrial Relations Commission to deal with such matters.

As for ILO Conventions ratified by Pakistan, these instruments have also provided strong legislative basis in the labour field both for the Federation and Provinces. Out of 190 total ILO Conventions, Pakistan ratified 36 Conventions. Of these, **33** are in force and **3** have been denounced. Operational conventions consists of eight core/fundamental conventions that are C29,C87, C98,C100,C105,C111,C138,C182, two priority conventions that are C81 and C144 and of the remaining 23 (with the exclusion of three not in force) are technical conventions.

Framework of Pakistan's labour legislation encompasses areas such as freedom of association, collective bargaining, forced labour, equal remuneration for work of equal value, child labour, equality of treatment, disabled persons, labour inspection, tripartite consultation, employment conditions, injury benefits, labour welfare, apprenticeship scheme, old-age benefits, social security, OSH matters, education of workers children, payment of wages etc. in industries and other enterprises.

Chapter One

History and Role of Trade Union

Movement in Pakistan

The trade union movement in Pakistan cannot be isolated from the Indian trade union movement for reasons of common roots - initial legislation, initial industrialization and political movement against the British Rule when union leaders as well as political leadership of both Indian Congress and Muslim League had struggled together for the better working conditions of toiling masses. The Vision of political leaders was clearly supportive to the cause of the working class. And trade union leaders were in the vanguard of struggle for freedom from British imperialism. The trade union movement was thus influenced not only by democratic philosophy but also by socio- political and economic thoughts.

Here's a brief account from www.mbarock.blogspot.com on the origins of the trade union movement in India: *'As an organized movement, trade unions began to take shape in India in the years immediately following the end of World War I. Indian trade unions did not grow out of any existing institutions in the society. The necessity of the formation and development of Trade Unions in India was realized from 1875 onwards by philanthropists, social workers like Shri Soirabji Sharpie Bengali and Shri N.M. Lokhandey. As a result of their concrete efforts there was awakening among the workers and they had formed a few trade unions like The Printers Union, Calcutta (1905) the Bombay Postal Union (1907) etc.*

"The necessity of having workers' organization on a large scale was realized only after the first World War. Labour leaders like Mahatma Gandhi had given due impetus to the organization of workers. Gandhi advised the working class, "to combine themselves in the form of unions but not for political motives but for bettering their social or economic positions. By combining into unions the labour would become intelligent enough firstly "to co-operate with itself" "and secondly "then to offer co-operation with capital on terms of honourable equality". Besides Gandhi, there was the Whitley Commission on Labour in India (1929-31). It was emphasized that the need of organization among Indian workmen is great and it further recommended that "nothing but a strong Trade Union movement will give the Indian working class adequate protection. "Besides Gandhi and the Royal

Commission on Labour (1929- 31) the necessity of forming Trade Unions has increasingly become more and more on attainment of independence in India.

“The trade union movement in India was born after the end of the 1st World War, when there was an outburst of Industrial strikes. This first union was started in Madras by the initiative of Mr. B.P. Wadia in 1918. It was known as the Madras Textile Union. It did excellent work in redressing the grievances of workers, but in 1921 the law was used against it by employers who obtained an order from the Madras High Court restraining the union activities. The event focused the attention of the public on the need for trade union legislation which did not exist till then in the country. Under the guidance of Mahatma Gandhi, the Ahmedabad Textile Labourer's Association in 1920 they were able to build up a solidarity among the workers which was unrivalled. The union was one of the strongest in the country. The year 1920 also saw the establishment of the All India Trade Union Congress (AITUC) as a central organization of labour. The main impetus to its founding was the association of India with the International Labour Organization. The passing of the Indian Trade Union Act of 1926 conferred a legal and corporate status on registered trade unions and granted them certain immunities in regard to trade disputes. The act made provision for two matters: The conditions governing the registration - the right and privilege accorded to registered unions and also allowed the funds of the registered unions to be spent for the conduct of trade disputes and for the provision of benefits to its members. In 1919 the international labour organization was founded and for the purpose of sending representatives to the organization the AITUC was started. In 1926, the Trade Unions Act was passed which was a landmark in the history of the trade union movement in this country. The Act gave a legal status to the registered trade unions and conferred on them and their members a measure of immunity from civil suits and criminal prosecution.

“Registration of Trade Unions enhanced the status of unions in the eyes of the general public and of the employers. Towards the end of 1920's there was a split in the Trade Union movement on account of ideological differences among trade union leaders. The AITUC was captured by the communists while the moderates started a new central labour organization known as the All India Trade Union Federation. The conflict among the leaders resulted in the failure of many strikes.

“The Second World War created an emergency and the trade union leaders again were split on the question of participating in the war. The communists following the Russian Communist party wanted to help the British to fight out the Nazis while Nationalist leaders wanted to strengthen the national movement to overthrow the British rule from India. This led to a sharp ideological rift and the trade

union movement was split again. Industrial unrest increased during the war because of the mounting cost of livings. The government used the Defence of India Rules and prohibited strikes and lockouts and referred industrial disputes to conciliation and adjudication. The deteriorating economic conditions made workers conscious of the need for making organized efforts for securing relief. This gave a catalyst to the union movement and there was a marked increase both in the number of unions and of organized workers.'

Not only did Mahatama Gandhi of All India Congress play a proactive role for the cause of Indian workers, Mr Jinnah's role as strong supporter of workers' rights in India is a historical fact. While he was a forward - looking political leader upholding the cause of Indian Muslims for a separate State on the basis of Two Nations' Theory, he was also elected as President of the All India Postal Staff Union for 1925. The Union had seventy thousand members representing the employees of the Postal Department of Government of India. As a member of the Indian Legislative Assembly, for over thirty-five years Mr Jinnah pursued the cause of workers within and outside the Assembly relentlessly. It is a known fact that Mr Jinnah played a key role in the enactment of the Trade Union Act of 1926, whereby the trade union movement of the subcontinent, for the first time, got a legal cover for unionising the unorganised workers to exercise their right of collective bargaining.

When Pakistan came into being, the trade union movement is known to have been carried by notable labour activists like Mirza Ibrahim, Bashir Ahmed Bukhtiar, Tuffail Abbas, Pasha Lodhi, Muhammad Sharif and others. The famous activist Mirza Ibrahim was the first President of the Pakistan Trade Union Federation. Tuffail Abbas used to lead the labour initiative at the Orient Airways. The Labour Union at the Orient Airways faced a lot of difficulties in the beginning as their initial strike did not go well and was unsuccessful. Meanwhile, Orient Airways emerged as a larger public enterprise in the shape of Pakistan International Airlines (PIA). However, Tuffail Abbas, being a good strategist, formed a Committee for Mutual Cooperation (CMC) when the labour union at PIA was dissolved, and later this Committee was transformed into a new labour union. Under the banner of the CMC the interests of labour were aligned and this factor was instrumental in formation of the new union.¹ (there is no citation for this at the bottom of the document)

The trade union movement in Pakistan owes much to the Labour Policy of 1969, culminating in the promulgation of the Industrial Relations Act and Labour Policy of 1972 resulting in the pro-workers reforms, new laws, creation of new institutions like the National Industrial Relations Commission, old-Age Benefits Institution, Labour Welfare Boards etc. The legislations and the institutions helped ease the oppression created by the earlier pro-employer stance of Labour Policy of 1959 whereas

the first labour policy of 1955 remained almost dormant. Labour Policies of 2002 and 2010 underscore the government's commitment to workers' welfare, and that of their families through an improved wage structure.

The trade union movement also took a new turn in the post 1980's era marked by human rights activism to look into the abuse of child and bonded labour, gender and sexual harassment issues and empowerment of women worker. However, it suffered a setback during the Martial Law regime of General Ziaul Haq when union activities were banned between 1977- 88.

Even the Pakistan Muslim League (Nawaz) political manifesto does not pledge support for trade unions. Though Benazir Bhutto's Pakistan People's Party (PPP-P) manifesto has overtly supported the workers' cause in Pakistan, no tangible advances seem to have been made by the party since the days of its Zulfikar Ali Bhutto, its founding father, that could be seen as strengthening trade unions in the country. The devolution plan of the PPPP government (2007-13) has resulted in the fragmentation of trade unionism. The PPPP government has not been able to achieve any political mileage for the active protection of the working class. Commentators in this regard label its devolution plan as counter-productive. No steps have ever been taken for unionization of workers in agriculture and the informal economic sector by any of PPP governments.

The privatization policy of the successive governments too has been counter-productive in this regard. There is hardly any increase in the number of unionized workers. Trade union membership has declined over the years owing to these developments. Furthermore with low pace of industrialization and high rate of inflation increasing unemployment and poverty, trade unionism seems to lose attraction for workers. The mind-set of powerful industrialists has never been pro-trade unionism and always seeks ways and means to avoid it.

Despite declining trends in workers unionization due to industrial restructuring, privatization, shift to outsourcing, contract labour practices and deregulation policy there has been an increasing realization of organizational unification and merger of trade union centers. An exemplary precedent is the emergence of the Pakistan Workers Federation (PWF) as a single body of workers at the national level. PWF has come to existence as the largest federation of workers in Pakistan by the merger of three national centres of Pakistan, namely: All Pakistan Federation of Trade Unions (APFTU), All Pakistan Federation of Labour (APFOL) and Pakistan National Federation of Trade Unions (PNFTU). These federations stand dissolved with the Constitution of PWF. Among its elaborate aims and objects as laid down in its Constitution, PWF intends to focus on the struggle for the protection and promotion of basic rights of workers concerning freedom of association, freedom

of expression, right of collective bargaining, equal treatment for all working groups and for the right of decent living.

PAKISTAN WORKERS FEDERATION (PWF)

The PWF came into existence in the year of 2005 through the process of merger of three national trade union centres namely All Pakistan Federation of Labour (APFOL), All Pakistan Federation of Trade Unions (APFTU), and Pakistan National Federation of Trade Unions (PNFTU). The new body i.e. PWF was registered with the National Industrial Relations Commission (NIRC) on 23 November 2005 under the Industrial Relations Ordinance 2002. It claims to be an independent and non-political organization. Per NIRC record, PWF at the time of its registration consisted of 175 affiliated trade union and had the strength of 548,292 members

The PWF currently comprises eight regional offices in all four provinces with 419 affiliated unions, having a strength of 880,000 workers across the country.

The affiliated unions of this federation represent workers from such different sectors of the economy telecommunication, irrigation, textile, garments, leather, transport, gas, engineering, local bodies, banking and insurance, media, newspaper hawkers, mines and minerals, sports goods, fertilizer, automobile, sugar, cement, chemicals, hotel, metals, etc.

The PWF being a single, strong voice of labour in Pakistan is represented in ILO to promote the cause of workers internationally and is also affiliated to the International Trade Unions Confederation (ITUC) which was earlier known as ICFTU. It also makes efforts at various national forums to safeguard and protect the rights of workers and to advance their interests.

Labour Relations in Different Perspectives

Terminologies such as labour relations, employees' relations, industrial relations and HRM are built up on theoretical premises and in terms of frame of reference. Each of them is differently understood in view of changes having taken place with time in thought and practice about work and economic dynamics. Industrial relations, traditionally in a pluralist perspective, are considered as relations among employers and their associations, workers and their trade unions, and state authorities. According to this perspective, expression of industrial conflict is inevitable and so requires a system of conflict management. ILO's World Report 1997-98 visualizes that public authorities' role to perform economic function in industrial relations aims to ensure harmonious balance in production and in distribution of the fruits of growth. This thematic need carries the industrial community out of necessity to the collaborative working of tripartism and role of state intervention for the betterment of industry and its working population. Industrial relations as a subject is multi-disciplinary in nature, the working of which coincides with a number of academic disciplines. As such it lacks an interdisciplinary approach. Therefore an industrial relation practitioner ought to look into all connected areas as a social scientist.

Changing management strategies, structure and policies for industrial relations, according to P.B.Beaumont (*Change in Industrial Relations, 1990, Routledge, London and New York*), has led to the framework of employees' relations strategy, as opposed to industrial relation policies which have connotation of collective bargaining centred³. In the unitary perspective this strategy is very close to HRM practices that regard employees as company's most valuable resource⁴. Above average pay, internal labour market structures with emphasis on flexible rewards system, employees' appraisal systems linked to merit awards etc., are salient prototypes of employees strategy⁵. The aim is to inculcate employees' loyalty, commitment and dependency. As a by-product, these companies seek to make it unnecessary or unattractive for staff to unionise⁶.

³ Page 75

⁴ Table 4.4: Management Styles towards Employees Relations

⁵ ibid

⁶ Sophisticate Management Style: See Table 4.4 of P.B.Beaumont (*Change in Industrial Relations, 1990, Routledge, London and New York*)

If the word “employee” is replaced by the word “labour”, the connotation reduces the broad-based range of coverage of greater population to mere toiling masses. The implication is that there would hardly be any dependency on decision-making of the working population who ought to be rescued either by the state through state involvement or legislative intervention and formation of unions becomes necessary. This terminology is thus very close to traditional industrial relations style and the use of it in the situation like that of Pakistan becomes relevant because of low economic and industrial growth which hardly shows any change in the outlook of the traditional employers and so out of date industrial relations practices prevail.

Labour Relations and Trade Unions

The low rate of unionization, state of union fragmentation into smaller groups and multiplicity of trade unions, inter-union rivalry, exclusion of a number of large scale organizations from the application of the law regarding formation of trade unions, privatization policy of the government, litigation with employer and amongst opponent factions of unionized workers, and the low pace of industrialization have made the role of trade unions marginalized in industrial relations. This carries over into the concept of collective bargaining at the enterprise level resulting in the inability to bring tangible change in the quality of life of workers particularly in the private sector that conceptually and practically is opposed to trade unionism. Trade unions’ collective bargaining role has remained confined to a few industries, particularly in MNE’s and large scale public or private sector organizations. In smaller establishments in the private sector collective agreements are generally made on matters of rights albeit an industrial dispute for the sake of collective agreement can be raised only on matters of interests. Also, Pakistani law permits formation of industry and national level trade unions, but hardly any collective bargaining at the level of industry or at national level has ever taken place for up-gradation of uniform employment conditions throughout the industry. Strict control of state machinery through legislative intervention on the one hand has stabilized employer-employees relations with the result that industrial action on the part of both trade unions and employers rarely takes place and on the other hand welfare and social protection schemes has provided to workers a strong base to stay on in the industry to perform their role as partners in progress. Though current data on increase/decrease of work stoppage is not available to determine the trends and behaviour of both workers and employers to industrial growth, what was recorded/compiled by the erstwhile Ministry of Labour and Manpower, it appears that there was declining trend in work stoppages (due to strikes and or lockouts) in the post-1972 period. The highest number was reported in the year 1972 after the fall of DACCA during the first regime of PPP

Government and at the time when 1972 Labour Policy was announced giving rise to lot of hopes and aspirations to workers who came on streets to demonstrate with demands for a great number of benefits. Afterwards multiple factors played role for the declining trend. One of those could be cited as social and economic reforms that were announced frequently for the working class and so there was left little need for workers to intensify efforts for unionization. Tripartite consultation mechanism was adopted as a regular feature to be conducted at the forum like Pakistan Tripartite Labour Conference (PTCL) held at national level almost every year and so brought workers and employers bodies closer to the Government functionaries so as to evolve in other words a system of corporatism to control the economy and rising power of trade unions at that time.. The factor of multiplicity of trade unions/federations and non-existence of a representative trade union movement has been considered to affect negatively labour relations in Pakistan. State of trade unionism in Pakistan thus can hardly be compared with that of industrialized countries such as the UK, USA, Germany, Australia, etc. because of a difference in strategic approach. Their reliance is much on bipartite practices. In Pakistan labour unions rather look forward to the State machinery for relief.

Labour Relations and Employers' Associations

Employers' stake as an essential party to industrial relations is inevitable. They participate in the process of collective bargaining to settle employment terms and conditions and set the trend of wage structure and development of labour legislation. They also participate in tripartite negotiations and consultations at various bodies including Pakistan Tripartite Labour Conferences to contribute to bring change in the system of labour laws and industrial relation. Their organizations such as Employers Federation of Pakistan and Federation of Chambers of Commerce and Industry operate at national level as a representative voice of employers to protect and promote employers interests in labour and business matters. But these bodies have never been seen to take part in collective bargaining at the level of enterprise or workplace level. ILO Sector Review Mission that visited Pakistan in 1985/86 has written in its Report in 1986 according to which the question of collective bargaining needs to be carefully considered in Pakistan. They reported that labour relations centred at the level of the enterprise. Bargaining according to the report is successful mainly in bigger enterprises where the workforce is better organized to negotiate with an employer who can make good concessions. The Report further says that such collective bargaining leaves outside its scope

the numerous workers employed by small and medium scale enterprises, not to speak of informal employment sector including agricultural sector that is not yet organized⁷.

Employers Federation of Pakistan (EFP) is officially recognized for consultation at the national and international level on labour issues. It was established in 1950 with the objectives to assist and guide its members in the creation and maintenance of industrial peace and harmony and to develop and train human resources for better management and growth through trainings and dissemination of information.

Affiliated to International Organization of Employers (IOE), EFP is invited by the ILO to participate in the deliberations of its Governing Body every three months and its General Conference every year.

Labour Relations and the State

Doctrine of State Intervention is manifest in the role of state in labour relations. This role is played through legislature, ministries of the federal government, provincial departments, economic and social sector policies and enforcement machinery in the form of field formations and institutional framework.

The account below on the development of labour relations laws in Pakistan has been developed on the basis of information compiled by Muinud-Din Khan et al and provided in the Introduction to the Industrial Relations Ordinance, 1969 (Progressive Publishers, Karachi (1970)).

To start with, regulatory mechanism for labour relations was provided by the Trade Union Act 1926 and the Industrial Disputes Act, 1947, enacted for the whole of British India, was adopted, with slight modifications, by the Government of Pakistan for all Provinces and the Capital of the new Federation. The former Act mainly provided for optional registration of trade unions. The Industrial Dispute Act, 1947 was designed basically to make provisions for the investigation and settlement of industrial disputes. It covered all persons employed in any industry to do any skilled or unskilled, manual or clerical work' including workmen discharged during a dispute. Persons employed in the naval, military or air service of Government were excluded from the application of the Act. After the imposition of Martial in the country Labour Policy known as Labour Policy of General Burkey was announced on February 28, 1959 and as pledged therein the Act of 1947 was repealed by the new law known as the Industrial Dispute Ordinance 1959 promulgated on October 19, 1959. The new Ordinance gave added powers to the Central Government for quick settlement of disputes

⁷ Page 127 of ILO Sect oral Review Report (1986)

particularly relating to gas, oil pipelines and petroleum oil refinery and relating to Federal Capital of Karachi.

In the meantime Trade Union Act 1926 continued to operate both in the Western and Eastern Wings of Pakistan. East Pakistan was the first to repeal the Trade Union Act 1926 and Industrial Dispute Ordinance 1959 in so far as their application in the East Pakistan was concerned. The new laws entitled the East Pakistan Trade Unions Act, 1965 and the East Pakistan Labour Disputes Act, 1965, were enacted after the same were passed by the provincial assembly of East Pakistan respectively on 8-8-1965 and 3-8-1965 and received assent the Governor of the East Pakistan.

The East Pakistan Trade Union Act 1965 restricted the right of formation of trade unions to only those persons who were employed in an establishment or industry to do any skilled, unskilled, manual, technical or clerical work for hire or reward including those whose dismissal, discharge or retrench had become the subject matter of an industrial dispute. Persons employed in the Police or the Armed Forces of Pakistan, Watch and Ward or Security Service, managerial or administrative capacity and non- industrial Government Servants were not allowed to form trade unions.

The East Pakistan Labour Disputes Act, 1965 excluded persons mainly in managerial or administrative capacity, in supervisory capacity with functions of managerial or administrative nature, or in a service declared by Government to be Watch and Ward or Security Service, from the definition of the term “worker”. In addition to the persons employed in the Police or Armed Forces of Pakistan who were already excluded, all non-industrial Government servants as in the case of East Pakistan Trade Unions Act 1965 were outside the purview of this Act as well.

Both these laws were amended in 1966 excluding persons employed in the corporations, autonomous bodies, and organizations set up by Government, from their purview.

By borrowing many of its features from the East Pakistan Trade Unions Act 1965, the West Pakistan Trade Unions Ordinance 1968 was promulgated repealing Trade Unions Act 1926 in 1968. Also the West Pakistan Industrial Disputes Ordinance 1968 was promulgated whereby the Industrial Disputes Ordinance 1959 was repealed and was made in line with the East Pakistan Industrial Dispute Act 1965. It excluded persons employed in prisons and hospitals from the purview of the Ordinance, but did not exclude persons employed in government corporations, organizations or autonomous bodies, as was done in the law of East Pakistan.

The history of labour relations took a new turn in 1969 with the change of Government from the regime of Field Marshal Law Muhammad Ayub Khan to that of General Muhammad Yahya Khan in

1969. The Governor West Pakistan Air Marshal Noor Khan in the Foreword of the Labour Policy of 1969 admitted the fact that the Government was aware of the environment that did not exist in which conflicts inherent in worker-employer relationship could peacefully be resolved. He therefore constituted number of study groups before formulating proposals for the new Labour Policy. After considering the proposals in depth and making necessary modifications announced the Government Policy in the belief that it would go a long way towards creating the partnership in which workers and employers could work together to achieve higher productivity to their mutual advantage.

The Industrial Relations Ordinance 1969 based on the wisdom and directives of 1969 Labour Policy was promulgated to provide for formation of trade unions and system of industrial dispute resolution through bilateral negotiation between CBA union and employers, and in its failure through conciliation by the service provided by the Government machinery. In case the dispute remains unresolved the office of Arbitrator could be invoked if both the parties agreed. In case it is not done the CBA union if it has raised the dispute will go on strike. If the employer had raised the dispute it could declare lockout. These were the pressure tactics or industrial relations weapons. Those were recognized as legitimate rights of both the parties to effectively serve the purpose to resolve the dispute. The new Ordinance also provided for registration of trade unions, formation of federation, check off system and establishment of Works Council. Lists of unfair labour practices were also brought in the text of the law to maintain checks and balances between both the parties to ensure stabilization of labour relations and so also greatly followed ILO democratic Conventions 87 (Freedom of Associations) and Convention 98 (Collective Bargaining).

The system of labour relations was given a new vision by the next Government. Mr Z. A. Bhutto under the dictates of his Labour Policy of 1972 in the name of fair deal in labour introduced new institutions such as National Industrial Relations Commission, Labour Courts and Labour Appellate Tribunal for determination of cases of unfair labour practices, registration of national and industry level trade unions and federations and determination of national level industrial disputes through judicial forum and determination of CBUs in large industrial organizations and procedure for redress of individual grievances. Under this Policy, the system of participative management was expanded by providing for establishment of management committees and joint management boards.

While the genesis provided by the law namely the Industrial Relations Ordinance 1969 was maintained in the subsequent laws viz., the Industrial Relations Ordinance 2002, the Industrial relation Act 2008, the Provincial Industrial Relations Acts 2010, the Industrial Relations Ordinance 2011 and the Industrial Relations Act 2012, dispute resolution mechanism, redress of individual

grievance, registration of trade unions, determination of CBAs and CBUs continue to be in place in one way or the other.

The development of Labour Relations law and the system evolved through State Intervention as such is evident from the above account. It also owes to the Constitutional imperatives under fundamental rights and International Labour Standards ratified by Pakistan. It needs also to be adjudged in the perspective of extraneous influences, economic policies and industrial restructuring and practices such as outsourcing, contract labour, HRM practices and privatization policy, to avoid application of Labour Laws.

Impact of Privatization on Labour Relations

The decade of the 70's witnessed policy of nationalization and state control in the form of extensive labour legislation and labour reforms coupled with state control on the mills that were nationalized. It brought workers of Pakistan to the brinks of watching the shift of the scene from their continuous exploitation in the hands of private ownership to the panorama of state-run industry where least concern by the state machinery was displayed for quality output and higher productivity. The policy and decision of the then Government regarding nationalization came under bitter criticism in the 80's with critical assessment of the same by public at large with constant analytical input from economists group through mass media. The result was reversal of the policy of the Government in 1990's onward.

'Since 1990, Pakistan sold off 167 state-owned enterprises (SOEs) at a price of approximately Rs476 billion. The first phase of privatisation in 1992-96 included partial privatisation of banks; this was followed by the second phase (1997-2000), resulting in the complete denationalisation of the banking sector. And the last phase of privatisation from 2001 till 2008 witnessed selling off non-banking sectors. Previous privatisation measures caused more unemployment and monopoly in the market. And sectors which were privatised were totally transferred from the government to some select families, which have controlled the economy since the establishment of Pakistan.

'Currently, the government has made so many feasible reports and plans in a bid to privatise state-owned enterprises sectors which have become limelight for the new phase of privatisation policy 2013 are PIA, Pakistan Steel Mills (PSM) and public-sector power projects, including Pakistan Transmission and Dispatch Company (PTDC). However, selling out of 26pc shares of PIA is also part of new privatisation policy phase (2013).'⁸

⁸ A letter from Fatah Shaikh from Larkana that appeared in the Dawn on October 22, 2012 on privatization

Privatization being so carried has raised number of questions. Fairness is the first and foremost concern. The second biggest issue is the fate of employees of the privatised units. Redundancies, outsourcing and downsizing are bound to take place that too will give further set back to trade union membership and their effectiveness in social dialogue. Job uncertainty and complete control of the private owners will occur rather grievously if further investment and process of development remain shy. The privatisation policy, if inevitable, is therefore required to be weighed against all these odds to ensure that fresh investment is not only diverted to buying state-owned enterprises but is also used to secure the future of youths. The new trend is also required to see that social security net and release of labour legislation coverage of the employees of the privatized units and increase in unemployment due to free play of market forces is not allowed to take place. As it happened in the past as a result of privatization it has altogether been resisted by trade union organizations in Pakistan. The impact of privatization as a whole has thus been assessed negatively from the point of effectiveness of collective bargaining-based labour relations.

Despite opposing conclusions on the impact of privatization on labour force and labour relation the fact remains that employees bargaining power rests with low grade employees that have really been affected and that is why the process is resisted. There is no law in Pakistan that allows the right of unionization to managerial and high grade cadre employees.

Chapter Three

Rights of Workers in the Perspective of Constitution, ILO Precepts and Legal Framework

Labour Rights are indelible part of human rights. Pakistan is committed to ensure labour rights to all its citizens through Constitutional bindings as well as commitments to comply with various International Declarations, Conventions and Convents ratified by it. Rights of citizens to freely form association and unions and workers right to collective bargaining for the protection and promotion of their interests constitute the foundation of labour rights that goes by institutional mechanism as a vehicle to enforce these rights.

Constitutional Perspective

I. *Freedom of Association*

Article 17(1) of the Constitution of Pakistan provides that every citizen shall have the right to form associations or unions subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality. By ratifying ILO Conventions 87 (*Freedom of Association*) and 98 (*Collective Bargaining*) which are two of the eight core labour standards and also by ratifying the Universal Declaration of Human Rights and International Covenants on Economic, Social and Cultural Rights and Civil and Political Rights, Pakistan has affirmed its commitment to international community to ensure without restrictions the right of every citizen of the country to form and join trade unions or associations, for the protection of his or her economic and social interests⁹. Further by ratifying ILO Convention 11¹⁰ Pakistan has undertaken to secure the agriculture workers the same right of association as given to industrial workers.

⁹ Articles 23-24 of Universal Declaration Human Rights and Article 8 of International Covenants on Economic, Social and Cultural Rights relate to freedom of association

¹⁰ ILO Convention 11, Article (1) says that each Member of the International Labour Organisation which ratifies this Convention undertakes to secure to all those engaged in agriculture the same rights of association and combination as to industrial workers, and to repeal any statutory or other provisions restricting such rights in the case of those engaged in agriculture.

Industrial Relations Laws of the country are the most important legitimate legal instruments to translate the rights of unionisation and collective bargaining into practice. The 18th Constitutional Amendment made in the Constitution of Pakistan on 20 April 2010 devolved the matters of industrial relations and trade unions to the provinces. Consequently, all the four provinces enacted Industrial Relations Acts 2010 (IRAs 2010). Provincial laws so made were followed by the enactment of Federal IRA 2012 to regulate industrial relations, registration of trade unions and their federations in the Federal Capital Territories and in the establishments which cover more than one province.

Workers and their unions, being amongst the most important stakeholders of labour reforms, as well as other concerned organizations and bodies are critical of the role of legislators in this regards as no meaningful consultation¹¹ with them was carried in the process of such a massive restructuring of labour regime through the passage of the 18th Constitutional Amendments.

Slavery, Forced, Bonded and Child Labour

Article 11 of the Constitution of Islamic Republic of Pakistan 1973 provides that:-

- (1) Slavery is non-existent and prohibited and no law shall permit or facilitate its introduction into Pakistan in any form.
- (2) All forms of forced labour and traffic in human beings are prohibited.
- (3) No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.
- (4) Nothing in this Article shall be deemed to affect compulsory service –
 - (a) by any person undergoing punishment for an offence against any law; or
 - (b) required by any law for public purpose:

Provided that no compulsory service shall be of a cruel nature or incompatible with human dignity.

Read with it are the following Core ILO Conventions ratified by Pakistan that address these subjects in so far as the labour field is concerned:

ILO Convention 29: Forced Labour Convention, 1930, *in force since December 23, 1957*

ILO Convention 105: Abolition of Forced Labour Convention, 1957, *in force since February 15, 1960*

¹¹ They are articulate in various consultation meetings and seminars. One eventually held was the last PTCL in this regard that was held in Islamabad in February 2010

ILO Convention 138: - Minimum Age Convention, 1973 (No. 138) *Minimum age specified: 14 years, in force since July, 2006*

ILO Convention 182: Worst Forms of Child Labour Convention, 1999, *in force since October 11, 2001*

The existing labour regulatory instruments (*until repealed by the enactment of corresponding laws by provinces*) that respond to the subject of the above Constitutional and ILO Conventions are:-

- 1) Children (Pledging of Labour) Act, 1933
- 2) The Bonded Labour System (Abolition) Act 1992
- 3) The Bonded Labour System (Abolition) Rules, 1995
- 4) The Employment of Children Act, 1991
- 5) The Mines Act, 1923
- 6) The Factories Act, 1934
- 7) The Road Transport Ordinance, 1961
- 8) The Shops and Establishments Ordinance, 1969

These pieces of laws contain the relevant provisions regulating and restricting the employment of children and young persons in keeping with objective conditions of each of the above labour enactments.

II. ***Freedom of Speech etc.***

Article 19 of the Constitution of Islamic Republic of Pakistan, 1973 is reproduced as follows:-

“Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to the contempt of court, commission of or incitement to an offence.”

In so far as the domain of labour is concerned the mentionable instrument appended to ILO Constitution 1919 is the Declaration of Philadelphia 1944 concerning the aims and purposes of the International Labour Organisation. It has binding effect. Thematic convictions laid down by it are in the following terms:-

- (a) labour is not a commodity;
- (b) freedom of expression and of association are essential to sustained progress;

(c) poverty anywhere constitutes a danger to prosperity everywhere;

(d) the war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

Industrial Relations laws enacted at the level of the federation and the provinces, subject to constitutional restrictions, are also a response to these commitments.

III. ***Promotion of Social Justice, etc.***

Article 37(e) of the Constitution of Islamic Republic of Pakistan 1973 says that the State shall make provisions for securing just and human conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.

In response technical ILO Conventions ratified by Pakistan that can be cited as relevant instruments are:

C001 - Hours of Work (Industry) Convention, 1919

C004 - Night Work (Women) Convention, 1919

C006 - Night Work of Young Persons (Industry) Convention, 1919

C014 - Weekly Rest (Industry) Convention, 1921

C015 - Minimum Age (Trimmers and Stokers) Convention, 1921

C016 - Medical Examination of Young Persons (Sea) Convention, 1921

C041 - Night Work (Women) Convention (Revised), 1934

C045 - Underground Work (Women) Convention, 1935

C059 - Minimum Age (Industry) Convention (Revised), 1937

C089 - Night Work (Women) Convention (Revised), 1948

C090 - Night Work of Young Persons (Industry) Convention (Revised), 1948

C106 - Weekly Rest (Commerce and Offices) Convention, 1957

The existing legislative instruments that respond to the subject of this Constitutional instrument are as listed below:-

Railways Act 1890 (Chapter VI-A)

Mines Act 1923

Coal Mines Regulations 1926

Metalliferous Regulations, 1926

Factories Act 1934

Dock Labourers Act 1934

Maternity Benefits Ordinance 1958

Road Transport Workers Ordinance 1961

Provincial Social Security Ordinance 1965

Shops and Establishment Ordinance 1969

Apprenticeship Ordinance 1961

IV. ***Promotion of Social and Economic Well-being of People***

Article 38(a) of the Constitution of Pakistan 1973 provides that the State shall secure the well-being of people ----- and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants.

Article 38 (c) of the Constitution of Islamic Republic of Pakistan 1973 ordains that the State shall provide for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means.

Some of the areas under these subjects are covered also by certain ILO Conventions ratified by Pakistan such as:-

C098 - Right to Organise and Collective Bargaining Convention, 1949

C100 - Equal Remuneration Convention, 1951

C111 - Discrimination (Employment and Occupation) Convention, 1958

C018 - Workmen's Compensation (Occupational Diseases) Convention, 1925

C019 - Equality of Treatment (Accident Compensation) Convention, 1925

C118 - Equality of Treatment (Social Security) Convention, 1962

C159 - Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983

The existing Labour Laws that respond in this regard can be cited as follows: -

The Fatal Accidents Act 1855

The Employers Liability Act 1938

The Workman Compensation Act 1923

The Payment of Wages Act 1936

The Mines Maternity Benefit Act, 1941

The Minimum Wages Ordinance 1961

The Provincial Social Security Ordinance 1965

Excise Duty on Minerals (Labour Welfare) Act 1967

The Companies Profits (Workers Participation) Act 1968

The Industrial and Commercial Establishment (Standing Orders) Ordinance, 1968 (S.Os 10-B, S.O. 10 –C and S.O.12 (6))

The laws relating to Industrial Relations (Collective bargaining resulting in collective agreements)

The Minimum Wages for Unskilled Workers Ordinance 1969

The Workers Welfare Fund Ordinance 1971

The Workers Children Education Ordinance 1972

The Employees Cost of Living (Relief) Act 1973

The Newspaper Employees (Conditions of Service) Act, 1973

The Employees Old Age Benefits Act 1976

The Disabled Persons (Employment and Rehabilitation) Ordinance, 1981

Legislative Framework

Framework of labour legislation deals with multiple subjects including labour relations, employment conditions, productivity, Occupational Safety and Health, ergonomic sciences, environmental pollution, scientific management, HRM paradigms, personnel management, human rights movements, gender issues, labour administration, wage determination, judicial determination of cases and controversial issues, application of economic theories, socio-economic ideologies and legal precepts and principles, business and corporate culture and so on and so forth. Broadly and for the sake of simplicity this framework may lead to the following categories:-

1. Protective laws such as mines acts, factories acts, merchandise shipping laws, laws relating to dock labourers, road transport, airways, railways, environmental laws etc.
2. Laws relating to wage determination in terms of minimum, living and fair wage and regulation of their timely payment.
3. Labour welfare, social security, social insurance and old age benefits laws
4. Laws relating to labour relations

Each of these areas individually and all collectively aims to improve upon the condition of life and work of labourers with positive dividends to employer, entrepreneur, industry and economy. Some of the long list of labour enactments that are prominent for more practical purposes and are in one way or the other subject of intervention by the State inspection services are precisely described as follows:-

Industrial Relations Act 2012

This Act is concerned with formation of trade unions and improvement of relations between employers and workmen in the Islamabad Capital Territory and trans-provincial establishments and industry and so applies to persons of such establishments and industry with the exceptions of persons employed (a) in the Police or any services or installations exclusively connected with the Armed Forces of Pakistan including an Ordnance Factory maintained by the Federal Government; (b) in the administration of state other than those employed as workmen; (c) as a member of the Security Staff of the Pakistan Airlines Corporation or drawing wages in pay group not lower than Group V in the establishment of that Corporation as the Federal Government may, in the public interest or in the interest of security of the Airlines, by notification in the official Gazette, specify in this behalf; (d) by the Pakistan Security Printing Corporation or Security Papers Limited; by an establishment or institution for the treatment or care of sick, infirm, destitute or mentally unfit persons excluding those run on commercial basis.

The law is based on the genesis of ILO Convention 87 (Freedom of Association) and Convention 98 (Collective Bargaining) and so with legal sanctions of enforceability gives right to both workers and employer to form trade unions, federation of trade unions, affiliation with international Federations and Confederations with right of registration of trade unions and federations incorporated in Pakistan. While registered trade unions have the legal immunity they are vested with the right to choose representative trade union as CBA with authority to bargain with the employer.

Apart from system of collective bargaining and social dialogue the Act of 2012 has also provided how workers can exercise the right to seek remedy for redress of individual grievance and challenge threat to jobs and employment career, etc. The main emphasis of the Act is the protection of the right to trade unionism. Any violation of unfair labour practice under section 31 on the part of employers on the basis of anti-union premises as well as unfair labour practice on the part of workers is prosecuted before NIRC in accordance with Act.

Punjab, Sindh, KPK and Baluchistan) Industrial Relation Acts 2010

These Acts were brought on the books of provincial statutes with difference that there is no NIRC, but power for judicial redress of individual grievance rests with the Provincial Labour Court, against whose decision/determination appeal lies with the Provincial Labour Appellate Tribunal. Other provisions by and large are identical.

Industrial and Commercial Employment (S.O.) Ordinance 1968

This law prescribes special rules relating to the terms and conditions of service of persons employed in industrial and commercial establishments employing 20 or more workers. It provides for compulsory group insurance, wage payments during lay-off, termination gratuity and dismissal and disciplinary procedures. Certain provisions apply to industrial establishments which employ 50 or more workers whereas all provisions apply to commercial establishments employing 20 or more workers. It does not however apply to establishments which have their own statutory rules of service for their employees.

Shops and Establishments Ordinance 1969

Coverage of this law extends to industrial establishments employing less than ten workers and those establishments and shops only that are situated within corporations, municipal or town committees. The law prescribes rules and restrictive conditions in respect of children and young persons, hours of work, leave benefits, regulation of payment of wages, termination notice and closing hours.

Payment of Wages Act 1936

It applies to the payment of wages to persons employed in any factory, industrial establishment or commercial establishment and to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a subcontractor, by a person fulfilling a contract with a railway administration. It prescribes

different pay periods depending on number of workers employed. Rules relating to the payment of wages at the time of termination of employment have also been prescribed. Authority under this law is appointed to hear cases of delay in payment of wages or unauthorized deductions from wages.

Minimum Wages Ordinance 1961

Minimum wages according to this Ordinance are industry wise fixed and periodically reviewed by Provincial Government on the recommendation of the Provincial Minimum Wages Board after following the prescribed procedures.

Minimum Wages for Unskilled Workers Ordinance 1969

This Ordinance relates to minimum wages of unskilled workers employed in industrial and commercial establishments. Minimum wages were revised almost every year. Minimum wage was raised to Rs. 10000 in Pakistan on June 26, 2013. The Federal Government raised the minimum wage from Rs. 8,000 to Rs. 10,000 per month for unskilled workers. Since the subject now falls under the domain of the provincial government, there could be variation in minimum wages province wise.

Road Transport Workers Ordinance 1961

This law applies to all persons engaged on mobile duty which includes drivers, cleaners, conductors and checkers employed by a road transport service. The Ordinance prescribes age limits for employees, hours of work, rest intervals, and leave benefits. Drivers must be at least 21 years of age. It also provides for group insurance in certain cases, rules relating to termination of employment and requires terms and conditions of employment to be laid down in writing.

Workmen Compensation Act 1923

This law falls in the company of social insurance and provides for payment of compensation for certain classes of persons for injury arising out of and during the course of employment. Compensation for death or total permanent disablement is now fixed for Rupees 400,000 in the Province of the Punjab as amended in 2013 by Punjab Workmen's Compensation (Amendment) Act, 2013 (XXVII of 2013). Commissioner Workmen Compensation is appointed to hear and decide claims of compensation.

Provincial Social Security Ordinance 1965

This Ordinance introduces a scheme of Social Security for providing benefits to certain employees and/or their dependents in the event of sickness, maternity, employment, injury or death and for connected matters. The Provincial Employees Social Security Institution is established in the province by the Provincial Government to run this scheme. Hospitals and dispensaries have been set up the PESSIs in provinces for treatment of employees apart from running the Scheme for other benefits.

Workers Welfare Ordinance 1971

This Ordinance has been enacted to provide for the establishment of a Workers Welfare Fund for providing residential accommodation and other facilities for workers and for connected matters. Initial contribution of Rs. 100 million was made by the Federal Government and the further resources were to be raised by the industrial establishments. Apart from providing for industrial housing the WWF over the years has tailored the needs of workers for marriage grants of their children, death grants and technical and post matriculation education of workers' children.

Employees Old Age Benefits Act 1976

This Ordinance introduces employees' old age benefits scheme. For its administration Employees Old Age Benefits Institution (EOBI) has been established under the Act to provide for old age benefits to the persons employed in industrial, commercial and other organizations. Presently, it provides following benefits to persons registered with EOBI or their survivors:

- Old Age Pension on attaining superannuation.
- Invalidity Pension on sustaining invalidity affecting insured person's earning more than one third of normal.
- Survivors' Pension to the following in case of death of insured person / pensioner.

- Surviving Spouse till life.
 - Surviving Children till 18 years of age.
 - Surviving un-married female child till marriage.
 - Surviving disabled child till life.
 - Surviving parents for 5 years, if an insured persons / pensioner not survived by spouse or children.
- Old Age Grant not meeting the benchmark for old age pension

The broad functions of the Institution are:-

- Registration of Employers and Employees
- Collection of Contribution
- Disbursement of Pension / Grant
- Investment and Fund Management

The minimum pension is Rs. 3,600/- per month. Old Age grant is paid in lump sum equal to one month's average monthly covered wages of the insured persons for every completed year of insurable employment if he / she do not meet the benchmark for pension.

The normal age for entitlement of old age pension / grant is 60 years. In case of women and insured persons employed in mines, the retirement age has been reduced by five years. However the other condition of pension / grant applies for eligibility of pension grant.

Mines Act 1923

Mines Act 1923 lays down conditions under which workers may be employed in mines. It also imposes restrictions on the employment of children and women on the underground work. It provides for regulation of inspection of mines by Mines Inspectors and for appointment of mining boards and committees, establishes rules relating to mining operations and includes provisions concerning safety and health, hours of work, leave, holidays and wage payments.

Factories Act 1934

This Act applies to premises where any manufacturing process is carried out and in which ten or more workers are employed. The Act prescribes the measures to be taken in respect of workers' safety and protection against facilities, ventilation, lighting, dust and fume control, fire precautions, cleanliness and maintenance. There are other general provisions

relating to medical examination in certain cases, the appointment of a welfare officer where 500 or more workers are employed, and the establishment of a canteen where 250 or more workers are employed and rest sheds in the case of 150 or more workers are employed. The Act also covers hours of work, rest intervals and weekly and annual holidays. A number of Rules made under the Act prescribe special precautions in respect of the administration of the Act including, for example, provisions for Fair Price Shop.

Dock Labourers Act 1934

This Act is to give effect in Pakistan to the Convention concerning the protection against accidents of workers employed in loading and unloading ships. The Act makes provisions for appointment of Inspectors and Principal officers and empowers them to enter any premises or ship where processes including all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it, are carried on, to make such examination of the premises or ship and the machinery and gear, fixed or loose, used for the processes, and of any prescribed registered and notices, and take on the spot or otherwise such evidence of any person as may be necessary for carrying out the purposes of this Act and also to exercise any other powers which may be conferred upon them by the regulations made under section 5 of the Act.

Dock Workers (Regulation of Employment) Act 1974

This Act provides for regulating the employment of dock workers to ensure efficient performance of dock work, expeditious and economic turnaround of ships and vessels and speedy transit of goods through the port. "Dock worker" in the Act has been defined as a person employed or to be employed in any port on loading or unloading of ships or other vessels or on work in connection therewith.

Railways Act 1890 (Chapter VI A)

This Chapter lays down limitation of employment of Railway servants. As for limitation of hours work, a railway servant, other than a railway servant whose employment is essentially intermittent, shall not be employed for more than sixty hours a week on the average in any month. A railway servant whose employment is essentially intermittent shall not be employed for more than eighty four hours in any week.

The employment of a railway servant is said to be 'essentially intermittent' when it has been declared to so by the authority empowered in this behalf, on the ground that it involves long periods of inaction; during which the railway servant is on duty but is not called upon to display either physical activity or sustained attention.

Newspapers (Conditions of Service) Act, 1973

This Act came into force with the assent of the President of Pakistan on August 11, 1973. It repealed and re-enacted the Working Journalists (Conditions of Service) Ordinance, 1960 with certain modifications and alterations. It has been enacted with the objective to constitute a Wage Board for fixing wage rates for the journalists as well as for non-journalist newspaper employees, to provide for effective implementation of the decision of the Wage Board, to provide for the application of the Industrial Relations Ordinance 1969 (*of the subsequent enactments on the subject as the same stands repealed*), to provide for the application of the Industrial and Commercial Employment (Standing Orders) Ordinance 1968 to newspaper employees and newspaper establishments and to provide for security of service, hours of work and medical care.

Under this Act Wage Board constituted under section 9 thereof shall consist of a Chairman appointed by the Federal Government, who shall be a person who has been, or is qualified to be a Judge of a High Court, and as many members to advise the Chairman as may be appointed by the Federal Government so, however, that one half of the members shall be persons representing the newspaper employees and the other half the employers in relation to newspaper establishments.

The Board shall give its decision within a period of one hundred and eighty days from the day of its constitution. In fixing rates of wages in respect of newspaper employees, the Board may take into consideration the cost of living, the prevalent rates of wages of comparable employments, the circumstances relating to the newspaper industry in different regions of the country, and any other circumstances, which to the Board may seem relevant. The Board may fix rates of wages for timework and for piecework. The decision of the Board fixing rates of wages shall be communicated as soon as practicable to the Federal Government.

The decision of the Board shall, within a period of one month from the date of its receipt by the Federal Government be published in such manner as may be prescribed. The decision of the Board so published shall come into operation on such date as maybe specified in the decision, and where no date is so specified, it shall come into operation on the date of its publication, and shall remain in force until it is modified or varied by a later decision of the Board published in the manner provided in the law. A decision of the Board published under section L1 shall be deemed to be an award of the Full Bench of the National Industrial Commission and, subject to the provisions of this Act, all the provisions of the Ordinance applicable to such award, including the provisions of sections 51 and 55 thereof, so far as may be and with the necessary modifications, shall apply lo the decision of the Board.

A newspaper establishment employing a newspaper employee shall, at the time of his appointment , transfer or promotion , furnish to him an order in writing showing the terms and conditions of his service. The services of a newspaper employee shall not be of employee terminated by a newspaper establishment without good cause shown, through a notice, in writing, of such termination-

- (a) of one month, if the total period of continuous service of the newspaper employee with the newspaper establishment is not less than three months but less than two years ;
- (b) of two months, if the total period or such service is not less than two years but less than three years ; and
- (c) or three months, if the total period of such service is not less than three years;

Provided that, if the order of appointment of the newspaper employee provides notice of a longer period, notice shall be given in accordance with the terms of such order;

Provided further that the services of a newspaper employee may be terminated at any time on payment of wages in lieu of the requisite notice.

Every newspaper establishment shall constitute, for the benefit of its newspaper employees, a Provident Fund in such manner as may be prescribed. The Provident Fund shall be held and administered by a Board of Trustees consisting of an equal to number of representatives of the newspaper establishment constituting the Fund and of the newspaper employees employed in it, chosen and appointed in such manner as may be prescribed. Every newspaper employee shall, alter the completion of the first two years of his service with any

newspaper establishment, subscribe to the Provident Fund, every month, a sum not less than 6 1/4 per cent and not more than 10 per cent of his monthly wages, and the employer in relation to that establishment shall contribute to it an equal amount. During the first three months of his service, the newspaper employee may or may not, at his option, subscribe to the Provident Fund and, if he so subscribes, the employer in relation to the newspaper establishment shall subscribe to it an equal amount.

A newspaper establishment shall be deemed to be a public institution for the purposes of the Provident Funds Act, 1925 (XIX of 1925).. Subject to the Factories Act, 1934 (XXV of 1934), and of any rules that may be made, or deemed to have been made under this Act, no newspaper employee shall be required to work in any newspaper establishment for more than forty-two hours in a week, exclusive of the time for meals.

Without prejudice to such holidays as, may be prescribed, every newspaper employee shall be entitled to –

- (a) earned leave on full wages, for not less than one-eleventh of the period spent on duty ;
- (b) leave on medical certificate on one-half of the wages, for not less than one –eighteenth of the period of service subject to a minimum period of ten days in a calendar year; and
- (c) Fifteen days' casual leave of absence with wages in a calendar year.

A newspaper employee shall be entitled, together with his dependants, to medical care at the cost of the newspaper establishment in, or in relation to, which he is employed. Medical care shall, subject to rules made under this Act, include –

- (a) treatment by a medical practitioner registered under the Medical Council Ordinance 1962(XXXII of 1962), both at the clinic of such practitioner and at the residence of the newspaper employee;
- (b) treatment by specialists in hospitals and by such specialists as may be available outside hospitals;
- (c) essential pharmaceutical supplies as prescribed by a medical practitioner under clause (a) or by a specialist under clause (b) ; and hospitalization, where necessary

The manner in which and the scale on which medical care shall be supplied shall be such as may be prescribed.

The Federal Government may, by notification in the official Gazette; constitute a Tribunal consisting of one or more members to implement the decision of the Board under section 11. The Chairman and members of the Tribunal shall be appointed by the Federal

Government on such terms and conditions as it may determine. Where the Tribunal consists of one member only, that member, and, where the Tribunal consists of more members than one, the member designated by the Federal Government, shall be the Chairman of the Tribunal. The Chairman of the Tribunal shall be a person who has been, or is, qualified to be, a Judge of a High Court. The qualifications for the appointment as a member of the Tribunal shall be determined by the Federal Government.

Notwithstanding anything contained in section 64 of the Ordinance, the Tribunal shall have power-

- a) to try an offence punishable under section 55 of the Ordinance¹², if the offence relates to failure to implement any decision of the Board;
- b) of its own motion, or on the application of a party, to withdraw from any court (except the Supreme Court or a High Court) any application, proceeding or appeal relating to such an offence and dispose of it; and
- c) refer any such application, proceeding or appeal to any such competent court for disposal

Any court to which any application, proceeding or appeal is referred under the law shall enquire into it and dispose, of the case as if the application or appeal had originally been made to it or, as the case may be, the proceeding had originally commenced before it. For the trial of an offence, the Tribunal shall follow the same procedure and exercise the same powers as the National Industrial Relations Commission follows and exercises for the trial of an offence.

International Labour Precepts

From the 190 Conventions in total, there are 8 fundamental Conventions, binding on every member country regardless of ratification, and a further 71 Conventions that are up to date and in force. The subjects covered by the Conventions concerned, first and in the most numerous group, individual rights at work, mainly on safety, wage standards, working time, or social security, and the rights to not be forced to work or work during childhood. Second are collective labour rights to participation in the workplace, particularly to join a trade union, collectively bargain and take strike action, as well as direct representation within the management of organizations. Third, there are a series of rights to equal treatment that are referential to the terms and conditions of people in comparable situations, with special protections for indigenous communities and migrants. Fourth, a set of

¹² The term 'Ordinance' under this law wherever appears means the Industrial Relations Ordinance 1969

Conventions promote job security, through standards for dismissals, protection upon an employer's insolvency, regulation of employment agencies and requirements upon member states to promote full and fulfilling employment. Fifth, there are 6 Conventions which require administrative apparatus by governments to enforce and promote labour standards, such as through inspections, collecting statistics, developing training and consulting with unions and employers before passing legislation. Seafarers are the subject of 12 specific Conventions because of the frequently international nature of their work, and a further 6 Conventions relate to conditions in the fishing, plantation, hotels, nursing, home and domestic work, where employees may be particularly vulnerable

Out of 190 total ILO Conventions, Pakistan ratified 36 Conventions (List along with other necessary material can be downloaded from net connections given at the end of this chapter). Of these, **33** are in force and **3** have been denounced. Operational conventions consists of eight core/fundamental conventions that are C29,C87, C98,C100,C105,C111,C138,C182, two priority conventions that are C81 and C144 and of the remaining 23 (with the exclusion of three not in force) are technical conventions.

Pakistan as a member state of ILO is obligated to implement ratified ILO Conventions through legislative and institutional measures under the established supervisory system which is in place for years together. It includes: -

1. The annual report of the Committee of Experts, usually adopted in December, is submitted to the International Labour Conference the following June, where it is examined by the Conference Committee on the Application of Standards.
2. The Conference Committee is made up of government, employer, and worker delegates. It examines the report in a tripartite setting and selects from it a number of observations for discussion. The governments referred to in these comments are invited to respond before the Conference Committee and to provide information on the situation in question.
3. Procedure for representations on the application of ratified Conventions.
4. Procedure for complaints over the application of ratified Conventions.
5. Special procedure for complaints regarding freedom of association.
6. Procedure for representations on the application of ratified Conventions.
7. Procedure for complaints over the application of ratified Conventions.
8. Special procedure for complaints regarding freedom of association
9. While member States can choose whether or not to ratify any conventions, the ILO considers it important to keep track of developments in all countries, whether or not they have ratified them.

10. Member States report at regular intervals on measures they have taken to give effect to any provision of certain conventions or recommendations, and to indicate any obstacles which have prevented or delayed the ratification of a particular convention.

This scheduled is to be adhered to in terms of ILO Committee of Experts Report and according to the Working Agenda for ILC. For detail one can visit: 'www.ilo.org', click on the link '**statistics and databases**', click on the link '**NORMLEX**', click on the link '**country profiles**' and navigate to click '**Pakistan**'. Here you will find lot of information in respect of Pakistan, e.g. list of ratified conventions, reporting schedule of ratified conventions, pending comments, COMMENTS OF CEACR, latest comments adopted by CEACR, etc.

Proper application of labour legislation depends on an effective labour inspectorate. Labour inspectors examine how national labour standards are applied in the workplace and advice employers and workers on how to improve the application of national law in such matters as working time, wages, occupational safety and health, and child labour. In addition, labour inspectors bring to the notice of national authorities deficiencies, loopholes and defects in national law. They play an important role in ensuring that labour law is applied equally to all employers and workers.

Chapter Four

Workers' Rights and Remedies under Legal Framework

Distinction between substantive law and procedural law is that substantive law refers to the body of rules that determine the rights and obligations of individuals and collective bodies whereas procedural law is the body of legal rules that govern the process for determining the rights of parties. Substantive law refers to all categories of public and private law, including the law of contracts, real property, torts, and criminal law. For example, criminal law defines certain behaviour as illegal and lists the elements the government must prove to convict a person of a crime.

Substantive rights according to Encyclopaedic meaning are basic human rights possessed by people in an ordered society and includes rights granted by natural law as well as the substantive law. Substantive rights involve a right to the substance of being human (life, liberty, happiness), rather than a right to a procedure to enforce that right, which is defined by procedural law.

In this sense this chapter aims to discuss substantive rights of workers as guaranteed by labour laws in relation to regulatory and procedural mechanism provided by the labour legislation to ensure their enforceability and compliance by judicial and administrative bodies established in the country. The sections that follow will aim to give the detail of substantive rights of workers as laid down by the labour laws and the procedure provided by those laws to seek remedy from administrative set up and labour judiciary and beyond it from superior courts on points of law.

Substantive Legal Rights of the Labour

Labour rights guaranteed under the Constitution of Pakistan such as freedom of association, freedom of expression, prohibition of the employment of children below a specific age, bonded and forced labour and trafficking in human beings as well as rights guaranteed under labour laws that are enforceable in a court of law are substantive legal rights of workers. Similarly, rights secured to them under an agreement, award, or settlement are also substantive rights as refusal to enforce them are cognizable by a judicial forum. The principles of natural justice as lay down by the maxim: *audi alteram partem* also constitute the basis for enforceable rights. For example, it is the right of a

worker that his wages are paid by due time and no unauthorised deductions are made from his fixed wages. Also a worker should not be exploited by taking work from him beyond the appointed and fixed hours. Rest interval and enjoyment of rest is also his legitimate legal right that should be effectively checked by a law enforcing agency. An employer cannot even refuse a person to employ or refuse to continue to employ any person on the ground that such person is, or is not a member or officer of a trade union. An act of the employer as such constitutes an unfair labour practice under the law in force and in that case such person can invoke the jurisdiction of the competent court.

Administrative and Judicial Remedies

The scheme of labour laws is that the implementation of the rights of workers enshrined therein is enforced not only by courts but also by the inspectorates through regular inspections of the employers' establishments. Any violation or infringement of rights or legal provision constitutes a criminal offence and prosecution of the defaulter is lodged in the court of the Magistrate. In view of these powers of Inspectors, the aggrieved worker sometimes seeks the help or invokes the authority of the Inspector for a remedy. In a number of cases it sometimes works effectively. Provisions relating to the working of Inspectorates under certain labour laws are reproduced below:-

The Mines Act 1923

Chapter II consisting of sections 4 to 9A deals with the appointment of Chief Inspector and Inspectors, Secrecy, Functions and Powers of Inspectors, Powers of special officers to enter, measure, etc., Facilities to be afforded to Inspectors, Secrecy of Information obtained and Secrecy of source of complaint. Chief Inspector and any Inspector amongst others have the power to make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and by laws and of any orders made thereunder are observed in the case of any mine.

The Factories Act 1934

Chapter II of this Act captioned as 'the Inspecting Staff' consisting sections 10-12 contains the provisions regarding appointment of Inspectors, Powers of Inspectors and Certifying Surgeons. An Inspector appointed by the Provincial Government under section 10 has the power to enter with such assistants, if any, being persons in the service of the state or of any municipal or other public authority, as he thinks fit, any place which is or which he has reason to believe to be, used as a factory or capable of being declared to be a factory under the provision of section 5 of the Act. A certificate of fitness for employment of a child of permissible age or an adolescent in a factory is

granted by the Certifying Surgeon or a by a registered medical practitioner authorised by him subject to the provisions of the Act.

The Shops and Establishment Ordinance 1969

Chief Inspector, Deputy Chief Inspectors and Inspectors for the purpose of this law are appointed under section 25 thereof. As empowered under section 26 an Inspector may at reasonable time enter into any place which is or which he has reason to believe is, an establishment, with such assistants, if any, being persons in the service of Government, and make such examination of the place or of any prescribed record, register, or other documents maintained therein, and may require such explanation of any prescribed record, register or other documents and do all such things as he considers necessary for the purpose of this Ordinance.

The Road Transport Workers Ordinance 1961

An Inspector for the purpose of this Act means an Inspector, including Additional Inspector appointed under section 10 of the Factories Act 1934 _ Rule 2(b) of the Road Transport Workers Rules, 1962]. Under section 9 of the Ordinance it shall be the duty of every employer to produce for inspection of such Inspectors as may be appointed by the Government all accounts or other records required to be kept for the purposes of this Ordinance and to give such officer any other officer in connection therewith as may be required. Rule 4 of the Rules *ibid* requires that an Inspector making an examination under section 9 *ibid* shall make examination of the prescribed registers, records and notices as may appear to him necessary for the purpose of satisfying himself that the provision of the Ordinance, and these rules and any orders passed by the Government thereunder are being properly observed.

The Payment of Wages Act 1936

Section 14 of this Act deals with the appointment of Inspectors for the purposes of this Act. As provided by the said section, an Inspector of Factories appointed under subsection (1) of section 10 of the Factories Act, 1934 shall be an Inspector for the purposes of the Payment of Wages Act 1936 in respect of all factories within the local limits assigned to him. Also, the Provincial Government may appoint Inspectors for the purposes of the said Payment of Wages Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom the Payment of Wages Act applies. By notification issued by the Provincial Government under this section local limits are defined within

which and the class of factories and industrial establishments in respect of which the Inspectors shall exercise their functions.

An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of Inspection, as he may deem necessary for the purpose of this Act.

The Industrial and Commercial Employment (Standing Orders) Ordinance 1968

Section 6 of this Ordinance relates to appointment and powers of Inspectors. The Inspectors of Mines appointed under section 4 of the Mines Act, 1923 (IV of 1923), the Inspectors appointed under section 10 of the Factories Act, 1934 (XXV of 1934), and such other persons, not being conciliators appointed under the Punjab Industrial Relations Act 2010 (XX of 2010), as Government may, by notification in the official Gazette, appoint, shall be the Inspector for the purposes of this Ordinance within the local limits assigned to each. An Inspector may at all reasonable hours enter on any premises and make such examination of any register or document relating to the maintenance or enforcement of the Standing Orders and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Ordinance. Every Inspector shall be deemed to be a public servant within the meaning of the Pakistan Penal Code (XLV of 1860).

The Industrial Relations Act 2012

Sections 29 and 30 (reproduced below) of this Act deals with the appointment and functions of Inspectors in so far as establishments situated in the territorial limits of ICT as well trans- provincial establishments are concerned.

“29. Inspector.- The Inspectors appointed under section 10 of the Factories Act 1934 (XXV of 1934), and such other persons, not being Conciliators appointed under this Act, as the Government may, by notification in the official Gazette appoint, shall be Inspectors for ensuring compliance with the provisions this Act within the local limits assigned to each.

30. Functions of the Inspectors. – (1)The Inspector may –

- a. at all reasonable hours enter any premises and make such examination of any register and document relating to the provisions of section 27 and 28 and take on the spot or otherwise such evidence of any person, and exercise such powers of inspection, as he may deem necessary for discharging his duty;*

- b. call for such information from the management as he may deem necessary for the discharge of his functions and the management shall provide the information called for within such period as may be specified; and*
- c. make a report in writing to the Registrar having jurisdiction of any offence punishable under this Act.*

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860)

Sections 27 and 28 respectively are concerned with the appointment of Management Committee and Joint Management Board.

Creation of the institution of inspectorates under various labour enactments means to provide administrative forum with the executive power to ensure implementation of labour laws whereby rights guaranteed or secured to workers are not only implemented but deterrent provision of the law make it possible to punish the defaulters being infringement as an act of criminal nature.

Jurisdiction of the court is invoked for the protection and procurement of secured and guaranteed rights of workers under any law. National Industrial Relations Commission is the national forum which exercises his jurisdiction to remedy the grievance of workers under section 33 of the Act. Action of employer against a worker is subject to judicial scrutiny. A worker may, bring his grievance in respect of any right guaranteed or secured to him by or under law or any award or settlement, either himself or through his shop steward or collective bargaining agent within ninety days of the day on which the cause of such grievance arises. In case the employer does not redress his grievance, he can take the matter to NIRC. In adjudicating or determining a grievance the Commission shall go into all facts of the case and pass such orders as may be just and proper in the circumstances of the case. An appeal against the Order of the Single Bench shall be preferred before the Full Bench.

For allegation of the commission of unfair labour practice under section 31 the worker(s) or their union can also invoke the jurisdiction of NIR. Employer can also take the matter of unfair labour practice against the worker or the union as the case may be for alleged violation of unfair labour practice under section 34.

Writ jurisdiction of High Court can also be invoked on a point of law.

NIRC is also empowered to adjudicate and determine an industrial dispute arising within his territorial jurisdiction within the meaning of section 54(a).

Power so exercised by a single bench of NIRC under section 33 or any other section is exercised by the Labour Court whose orders are appealable before Labour Appellate Tribunal under the Provincial Industrial Relations Act of 2010

Procedural Law for Enforcement of Rights

Procedure for trial labour cases is followed by the laws laid down in the Industrial Relations Acts of 2012 and 2010 in so far as seeking remedy in respect of individual grievance and commission of unfair labour practice are concerned. These are also procedural for awarding punishments for violation of their provisions or terms of agreements, etc. These are procedural in respect of registration of trade unions, holding referendum for determination of CBAs, holding elections of office bearers of unions and for determination of CBUs, raising and settlement of industrial disputes and appointment and functioning of Management Committees, Joint Management Boards and Shop stewards. The Payment of Wages Act 1936 to the extent of the application section of 15 and Shops and Establishments Ordinance to the extent of section 12 for trial of wages cases, the Workmen Compensation Act 1923 for trial of compensation cases and Minimum Wages Ordinance 1961 for fixation and review of minimum rates of wages are also procedural laws amongst others. The working of inspection services under all labour laws is also procedural in nature.

As the application of Cr. PC and CPC is not barred, both are also procedural for trial of criminal and in nature civil cases under the labour laws.

Bipartite and Tripartite Consultation Bodies

Perpetuity is attributable to bipartism in labour relations that inherently exist in contractual ties of both workers and employer in terms of rendering service by the former and fulfilling obligation of wage payment and provision of other benefits by the latter. Decent work paradigm also owes to this basic relationship that too calls for reciprocity of rights and obligations of the parties. Radical theory of industrial relations postulated by Karl Marks underpins this relationship as a harsh reality in the following words as recorded by Michael P. Jackson in his standard text, *An Introduction to Industrial Relations*:-

“Capitalists and wage-workers stand at each side of the labour market as buyers and sellers respectively of the commodity ‘labour’. Wage-workers, as the owners of the commodity present themselves on the labour market in order to sell their labour in exchange for means to sustain their existence. The Labour is completely valueless to them until it is combined with the means of production. However, since these are owned by the capitalists, wage –workers capitalize on their labour only by selling it. Capitalists, for their part present themselves on the labour market in order to purchase the labour required for the profitable deployment of their means of production.”¹³

This theory emerges from the behaviour of the capitalist /the employer to the labour class. The off –shoots of the behaviour such as utilitarian concept, scientific management and traditional management style all hinge on this theory. Devoid of participative or consultative approach these off shoots alienate the labour from the ownership of or a sense of belonging to the industry by the labourers. Workers and employers are set apart. Labour is viewed as factor of production to be made use of to get production and services to earn profits with no fair and participatory reward of their work. Principle they have been acting is maximum output with minimum return to them at the cost of their total exploitation. Employees/workers subordination is assumed to be the natural order. Unionization is opposed and unions are kept at arm’s length.

In retaliation to this out-dated theory, unionization became inevitable and tolerated with reservation not to accommodate it whole heartedly the thesis of workers participation and workers involvement in management was advanced. While trade unions continue to remain in place workers bipartite consultation bodies were raised and at places have been benefitted from.

In Pakistan's labour relations law enacted in 1969, this concept was for the first time introduced in the form of works council. In 1972 two more bodies namely Management Committee and Joint Management Board were also provided while keeping intact previous provision of Works Council. As all the three bodies had overlapping functions, the Industrial Relations Ordinance 2002 provided for one single body namely Joint Management Council consisting of employers and workers participation in the ratio 4:5 with the following consultative functions to perform:-

- a. Improvement in production, productivity and efficiency;
- b. Provision of minimum facilities for such of the workers employed through the contractors as are not covered by the laws relating to welfare of workers;
- c. Promoting settlement of differences through bilateral negotiations;
- d. Promoting conditions of safety and health for the workers
- e. Encouraging vocational training within the establishment;
- f. Provision of educational facilities for children of workers.

This provision of Joint Works Council was shelved with in the subsequent Federal and Provincial Industrial Relations Acts and earlier provisions of Works Council, Management Committees and Joint Management Board as amended and introduced under the dictates of 1972 Labour Policy were revived. Those bodies except that of the Joint Management Board provided for equal participation of employers and workers. The latter body provided for 30% participation of workers at the company level.

This provision of participative management has the linkage in the genesis of HRM, Sophisticate Management Style, Employees Relation Strategy and Germany's Codetermination System of workers/employees participation in decision making and of latest in the schemes of workers involvement as practised in other countries.

Workers involvement schemes that are in vogue in number of other countries include:-

1. Sharing Information in the form of internal communication, staff newspapers, electronic briefing, employee survey, etc.
2. Health and Safety Committees;
3. Profit-related Pay;

4. Employee Sharing Schemes
5. Profit Sharing Schemes
6. Discretionary Share Option Schemes
7. Commitment to Quality Schemes such as self –managed teams, continuous improvement, total quality management, team work etc
8. Developing Individual, staff appraisal, performance management,
9. Consultation; staff suggestion schemes, works committees
10. Team briefing; quality circles etc.

Conceptually employee-employer consultation originates from the institutional framework of Industrial Democracy that according to Braun dates back to the nineteenth century¹⁴.

Tripartite structure of industrial relations has taken birth with the coming into being of ILO in 1919. The International Labour Organization (ILO) is the only tripartite U.N. agency with government, employer, and worker representatives. This tripartite structure makes the ILO a unique forum in which the governments and the social partners of the economy of its Member States can freely and openly debate and elaborate labour standards and policies. Its General Conference or ILC that is held every year comprises four representatives of each of the Members, of whom two shall be Government delegates and the two others shall be the delegates representing respectively the employers and the workpeople of each of the Members.

ILO's Governing Body is also of tripartite composition consisting of fifty –six persons:

Twenty –eighth representing governments;

Fourteen representing the employers; and

Fourteen representing the workers

This tripartite structure has also been followed by Pakistan for its regular and permanent national level consultation bodies namely Pakistan Tripartite Labour Conference and Standing Labour Committee that are held periodically to discuss labour legislation and other national level labour issues through tripartite consultation.

¹⁴ P. Braun, *Authority and Participation in Industry*(Bats ford, London, 1983)

Tripartite feature of industrial relations has also been recognised and elaborated by Dunlop who modified the work of sociologists, in particular that of Parsons and Semester to enable him to discuss the industrial relations system. According to him, an industrial relations system is regarded as composed of actors, certain contexts, an ideology which binds the industrial relations system together, and a body of rules created to govern the actors at the place of work and work of community¹⁵. The creation of rules was seen to be the central aim of the industrial relations system, and Dunlop isolated three main three main groups of 'actors who took part in the rule making process:

1. a hierarchy of managers and their representatives in supervision;
2. a hierarchy of workers (non-managerial) and their spokesmen;
3. specialised government agencies (and specialised private agencies created by the first two actors) concerned with workers, enterprises and their relationships.

The critical view of it is that actors were not completely free agents; they were influenced by environment and were influenced and limited by it. The important features of environment, according to this view, though are determined by larger society and its other sub-systems and are not explained within an industrial relation system.¹⁶

Despite that the System Theory of Industrial Relations has come under bitter criticism, its tripartite structure continues to dominate the industry world-wide. ILO too took legislative measures to strengthen it by way of adopting specific standard setting initiatives. ILO Convention 144 i.e. C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 which is one of the priority Conventions has been ratified by Pakistan who as such is internationally committed to raise institutional structure of the principle of tripartite.

¹⁵ J.E.Dunlop, *Industrial Relations System* (Holt, New York, 1958), p 7 in Michael P. Jackson, *An Introduction to Industrial Relations*, R, London and New York, p 4

¹⁶ J.E.Dunlop, *Industrial Relations System* (Holt, New York, 1958), p 9 in Michael P. Jackson, *An Introduction to Industrial Relations*, R, London and New York, p 4

Chapter Six

The Way Forward

Pakistan's industry since the beginning hasn't seen strong trade union movement; trends in industrial relations in this country are not determined by trade unionism. Seventies was the decade of nationalization, extensive state control and massive labour legislation and labour reforms; eighties was spent on critical appraisal and thinking about reversal; and nineties onward period is marked by the control of market forces in the name of liberalization of economy, de-regulation of legislative controls and de-nationalization and privatization measures. In a country where unionization did not go beyond 3% of the employed labour force, unions' role has remained marginalized. Entrepreneur's dominance, changing business strategy, political disorder, debates on sustainability of a democratic system, energy crisis, foreign loans, issue of balance of payment, dependency on the proceeds of privatised units, pilferages of public exchequer and so on and so forth are the crucial matters that also have enduring impact on the sustainable development or stability of an industrial relations system which is suffering from declining graph of trade unions strength. Universities that are switching over to HRM studies hardly find any rationality in the expression of conflict in industry and so are not very keen to find mechanism for conflict management. They are rather supportive of conflict-free employer- employee relationship.

In this state of affairs individualized employees relations, out sourcing and contractual employment practices and dependency on small business will increase. The rule of law will be minimised. New entrepreneurial capitalism will form. Banking industry will have pivotal role to play. Construction industry and Information technology will develop further. Reliance on unions will wither away. HRM Practices will be embraced. Education and technical training will open new vistas of knowledge and employment avenues. Educated youth may operate from their homes. Life style will undergo a considerable change.

Human rights issues will go in the background. While new business scenario based on new technology will emerge, crime based on scientific lines by educated youth will enhance. New meanings will be assigned to gender balance. Women will come up with a strong force to meet

effectively the male dominance in all fields. Agriculture and informal sector of the economy will remain an issue to be dealt with for productive growth by taking suitable measures to do away with the feudal system. But it depends on the ruling regime in regards to how forcefully it could tackle the feudalism. Related to it is also the success and failure of a democratic system and future of democratic institutions.

If resurgence of new elite class is checked effectively, there is possibility of reduction in poverty gaps or the same will enhance giving room to crime and exploitations.

These forecasts are predictable only in view of changing trends and global influences. Things could happen differently if national resources and energies are concentrated on developmental activities, scientific and technological studies and innovation, exploration of energy resources and orderly life, pilferage-proof financial management, competitive education, orderly national life and good governance. Decent life paradigm for work, health and safety and above average pay and commitment to productive goals and total quality of life are required to be adhered to for the attainment of the targets with spirit to excel. These are essential elements and pre-requisite for a bright national future and the nation's survival.

Chapter Seven

Highlighting Labour Rights and Issues – Tips for CSOs and Labour Rights Organizations

Labour rights are human rights. And as with all human rights stories, reporters need to have a good understanding of constitutional, legal and international treaties on protecting human rights. Along with these, reporters must also have knowledge of the International Labour Organization's International Labour Standards (ILS) that protect labour rights and ensure people have access to fair treatment, enabling work conditions, social protection and fair wages, among other things.

At the same time, covering labour rights is also covering development, especially human development. A close look at development goals would show that all of these are manifestly objectives of any framework that seeks to protect labour rights and ensure optimal productivity on part of a country's human resource.

Development was globally seen in pure economic terms till the mid-80s. However, by the start of the 90s a new approach towards development took hold. Experts started to attach more significance to the quality of life and opportunities available to individual human beings. The concept of development started focusing more on enabling people to live better lives and improving the chances for people to reach their potential.

These key components of human development are:

- A healthy life
- Education
- Sources for a dignified existence
- Participation right

UNDP's Integral Factors for Human Development¹⁷

Equity: Equal opportunities for all. Special emphasis is placed on equity of human development between men and women and various social groups. In case of labour rights this would translate into equal access to opportunity and employment. Equal and fair treatment above gender, disability, caste colour or creed.

Empowerment: Freedom of the people to influence, as the subjects of development, decisions that affect their lives. In the case of labour rights it would mean social, financial and legal empowerment where labour is recognized free of slavery and has access to rights all citizens of the state should have as per the constitution.

Cooperation: Participation and belonging to communities and groups as a means of mutual enrichment and source of social meaning.

Sustainability: Meeting the needs of today without compromising the ability of satisfying the same by future generations.

¹⁷ What is Human Development, UNDP - <http://www.undp.org/bz/human-development/what-is-human-development/> - Date of Access: 5th October 2012

Security: Exercise development opportunities freely and safely with confidence so that they will not disappear suddenly in the future.

Productivity: Full participation of people in the process of income generation and gainful employment.

Where to start?

We can start by understanding how media and journalists work. If we know and appreciate their needs – what they look for when they look for news – we stand a better chance of engaging media professionals on the themes we want to highlight.

Understanding Media

At any given time, many stories are vying for media attention, for space. Your's is just one of them.

With the space limited and competition strong, even if you make it to news, don't expect it to be a perfect coverage. You cannot blame media for that all the time. What you can do is to stay prepared for that opportunity, for that time when your story would appeal to media and journalists who have a lot of other stories to consider.

While there is a consensus on the role of media in strengthening democratic culture as central to any reform process, apathy on part of media, the government and the political parties to open up the process to public consultations has consigned the debate over reforms to close door meetings.

Research into media coverage of issues of significance to people – social issues as they are called, as opposed to politics, business and economy - such as health, education, elections, labour rights, human rights, etc. reveals that:

1. **SENSATIONAL VS THE SIGNIFICANT:** News is image and event driven. There is emphasis on what is sensational than what makes sense to people. Issues and ideas that are not “breaking news” don't lend themselves to coverage.
2. **LOW PRIORITY.** Almost all news items on issues and causes of social significance are reported on the inside pages of newspapers if at all, indicating the low level of importance attached by newspapers (or institutional capacity to report).
3. **LOCAL INTEREST.** Local language media are relatively more responsive, while the space given by mainstream English and Urdu language media is very limited. Similarly the local media is more interested, with both Urdu and local language local media providing much higher coverage in comparison to national papers.

4. **REACTIVE, NOT ACTIVE.** The majority of stories are based on press releases with very few news generated by the reporters themselves.
5. **FOCUS ON NEWS, NOT ANALYSIS.** There are very few editorials, commentaries, analyses, features or investigative reports. There is no attempt to educate the media consumers, merely to provide routine information on the subject.
6. **COVERING REFORM:** It has always been difficult for media to cover legal reforms. Reporters find it challenging to translate legal expression into people's stories. As a result, media gives it all a legal face and expression that people find hard to follow. This excludes people from the legislature and reform process. Instead of highlighting the cause and effect of the legal and political processes – how things might change, how the new structure or process is an improvement over the last one or not, demystifying the law and simplifying it to help people understand and avoiding legalese and jargon – the media balks at the challenge and avoid analytical coverage of the legislative and electoral process.
7. **MISSING VOICES:** As a result, people have stopped talking about the legislation process. For them, laws are made and amended by military and political rulers, by legal and constitutional experts away from the public gaze and scrutiny. They don't have the understanding and the wherewithal to challenge the system and the changes made to suit the people in power.
8. **LACK OF TRAINED REPORTERS:** There is need for media to engage committed, trained journalists or train the existing lot because as things stand, the journalists in the districts are teachers or low-ranking officials.
9. **CRISIS VS CAUSES:** With so much conflict happening – target killings, bombings, drone attacks, floods, etc. – issues other than people's cause hog the space and media's attention. Many important issues are ignored until a crisis occurs. How much coverage of disaster management do we see until the next floods or earthquake strikes?

To have your cause highlighted by media is a matter of constant engagement with journalists. Journalists who appreciate the need for media discourse around issues important to people, journalists who can break away from the umbilical of politics and controversy that feeds media. You have to seek out such journalists, befriend them or facilitate them. You can invite them to your events to sensitize them to your cause and the need for reform. You can facilitate their work through research, field visits and access to people and their stories.

You may also want to increase the capacity of your organization to regularly interact with the media and become proactive information providers. Civil society-media relations need

to be improved through regular formal and informal meetings and open consultative dialogues.

And while you do this, you should partner with media to bring the fore citizens' voices and perspectives. After all, a lot about you is common: Both media and civil society organizations for the people, you work on issues that affect people, you care about people and their concerns. Nothing should keep you from fostering a relationship that is built on common goals.

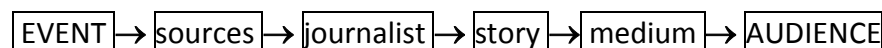
What Makes News?

Media and Journalism are driven by news – something that is happening now, is fresh, is current.

The main role of journalists – reporter, editors, broadcasters and producers, whether they work on politics, economy or health beats, is to communicate information from an event to their audience – readers, listeners or viewers.

How do journalists do this?
Using the media, of course!

Newspapers, Radio, Television, Internet, and Mobile Phones are news mediums. They are the vehicles that carry information. Together these are known as “the media.” The journalist, as a representative of the media, brings an event (which is the news) to the audience.



Event:
When something happens

Sources:
People who can talk about the event

Journalist:
Person who interviews sources and prepares a write-up about the event/issue

Story:
Coverage of the event/issue in a specific format (news, feature, etc)

Medium:
Method of delivering news to people (paper, radio, television, online, mobile)

Audience:
Readers, listeners or viewers who get the news

When events happen, sources talk about the event to journalists. The journalists then report and produce news which are published or broadcast through a medium, reaching the audience.

EXAMPLE:

Event:

New research shows maternal health indicators in Balochistan below that in Somalia

Sources:

Researcher, research organization, doctors, health workers, health experts, health authorities, a case study of a mother with no access to medical care

Journalist:

Health reporter

Story:

Bibi Bakhtawar from Chaghai has died in her village giving birth to twins. She could not be taken to hospital because her village is miles from the nearest hospital. She is one of the 900 women in Balochistan who have died in the last three months – approx 300 deaths every month – during child birth due to lack of access to pre-and post-natal care, according to a new study by Seher, a community organization based in Quetta. Seher works on women and children health issues. Bibi Bakhtayar family and doctors and nurses involved in her care have information and opinions about the delivery. The health journalist interviews the family, medical professionals, and public and women's health experts, analyses the information and writes the story, which gets edited and printed in the Daily *Intikhab*. Readers in the Balochistan Province read the news and get informed.

Medium: Daily *Intikhab*

Audience: Readers in Balochistan

Practice thinking like a Journalist

Here's an example: You want local journalists to do a story on repatriation of Afghan refugees from Pakistan. What possible angles can you look into to attract the journalists –

Pregnant women? Children? Old people? Peasants working on local land? Local business and labour?

Similarly what problems would Afghan refugees cause to host populations?

Sharing scarce water? Scarce job opportunities? Land ownerships?

Once you have decided to report on labour rights, you need to develop a human rights and development lens to seek out relevant stories in your surroundings. Select the issue that interests you and develop the basic expertise. Don't panic; developing an expertise doesn't mean you have to become an overnight expert on the theme. But, you *do* need to develop a basic knowledge base that helps you understand the theme and place the news stories in context.

Staging a Media Event

For media in Pakistan where investigative or enterprise reporting is rare, a trend that has become all the more entrenched due to the prevailing culture of "breaking news", news mean an event or a development happening now.

If there is a story that requires greater commitment beyond turning up at an event and covering it, the likelihood of it getting ignored is high. It is not that journalists are not interested in in-depth reporting. Often, they are burdened by multiple beats, not getting paid or lack organizational support for investigative reporting.

That means anyone interested in letting the world know about the work we are doing has to work like journalists, or at least develop a nose for news. They need to be able to spot what is newsworthy in their work, what will get the media excited about it enough to dedicate space and effort to it.

While current events and developments that hog media's attention are sometimes incidental or maybe planned, in case of community organizations it means staging one around the story that is significant.

News that we see in papers or tv come out of a media event. The president speaking about the need for extension of the Political Parties Act to the Federally Administered Areas is probably at an event where he is signing a legislation to make this possible. Or a visa relaxation regime between India and Pakistan is announced by the foreign ministers on the occasion when they meet annually to thrash out thorny issues that plague relations between the neighboring countries.

It is essential to stage an event to put across your story or message if only because news media doesn't go out of their way to cover isolated stories or opinions.

It doesn't have to be expensive but it most certainly has to be smart – you are competing for space in media and that means your story has to have all the makings of news. You have to have the instincts, and more importantly, a journalist's nose for news to make your message and event attractive to media.

Here's how you could go about creating a media event that you want to draw journalists to:

Develop a simple message to summarize the essential information you want to convey, no more than a phrase or sentence

Example: 300 mothers die in Balochistan every month for want of healthcare

Quetta to turn into desert by 2016 due to water shortage

Climate change forces 12 million to migrate from Balochistan in the last decade

Afghan refugees to leave Balochistan by year's end

Keep it simple: While creating a message, make sure it is simple – imagine it for the sixth grader, for an old man of 80 - and arresting. Maybe it can be shocking to galvanize people and authorities into action such as the death of mothers. Maybe it is about the authorities' failure to respond to the needs of population displaced by floods or to draw attention to the need for legislating policies on climate change.

Keep it focused: Try and keep the message focused by not combining two events in one. There is no point in releasing a study about maternal health and combining it with disastrous effects of climate change on orchid growers in, say, Zhob. That is a story in itself and perhaps needs a media event of its own.

Once you have created the message, ask yourself "is this news?" Does it have all the values of news? Am I the first to communicate this to media?

Create Sound bites: To communicate the message to media, think of what statements can you make to support the message. Develop a list of talking points that you can communicate during interview with the press.

Keep your sound bites short and informative. Don't put too much information into it so the audience can follow them easily.

Build a media event around the message

Once you have the message and the sound bites, build the event around it. It can be a press conference, a formal launch of a research report, a community gathering for aid distribution etc.

The proceedings, the statements, the material, the site and speakers, signs and sound bites, the images and opinion – all must work together to communicate the same message.

In addition to the above tips, you need to know and put together briefs to share with media on the following::

1. The Playing Field or the Context

Take time out to study the theme in detail. You need to develop a clear picture in mind that shows the current status of the development theme you will be working on.

For example, if you are covering labour migration in between Pakistan and other South Asian countries, you may want to know:

a/ Who are the Pakistani Migrant Workers?

Pakistan is the 2nd among South Asian nations sending migrant workers abroad and describes itself as a country highly pro-emigration. This makes it very important for Pakistan to have a solid and clear policy to support overseas employment for Pakistani youth.

Since 1971 to 2013, more than 7 million Pakistanis have proceeded abroad for employment through the Bureau of Emigration. Out of this total manpower exports about 96% have proceeded to Gulf Cooperation Council (GCC) countries.

Migration from Pakistan peaked in 2012 when 628,452 left the country. The key country of destination is Saudi Arabia followed by UAE, Kuwait, Oman, Qatar and Bahrain as indicated in the table below.

b/ Female Migration

In line with global trends migration in the region is becoming increasingly feminized, with women making up 42 per cent of migrants in Asia (UN DESA, 2013) and there are now increasing calls for promoting greater opportunities for women to migrate. In Pakistan, however, the share of female workers is very low in the overall migration; their percentage of the total number of migrant workers equals 0.12% so there is a lot of scope to substantially increase female migration in occupations considered safe. The Government of Pakistan encourages the participation of women in any sector.

Female workers move abroad for employment, primarily in the field of health services, finance sector, beauty and fashion designing. The main reason behind the small number is religious and social values. Other characteristics of female migration include:

- Women receive lower salaries, but remit higher proportions. They are more likely to finance family needs with remittances.
- The high costs of migration can be particularly challenging for women.
- Women migrant workers are more vulnerable to labour exploitation and abuse.

c/ Remittances

According to the World Bank, Pakistan has become the fifth largest remittances recipient developing country in 2011. According to Economic Survey of Pakistan 2012-13, workers' remittances increased to \$ 11,569.82 million during the July 2012 - April 2013 time period, up from \$10,876.99 million for the July 2011- April 2012 period (registering a growth of 6.37%).

d/ Efforts being made to enhance Labour Migration Governance in Pakistan

In late 2013, the ILO launched a sub-regional project aimed to promote the management of labour migration from Pakistan, India and Nepal to selected Gulf Cooperation Council countries. The aim of the project is to ensure effective protection of the rights of vulnerable migrant workers, enhance the development impact of labour migration and reduce unregulated migration. The project is implemented with funding from the EU.

The ILO has also been working with the Bureau of Emigration to promote awareness on HIV & AIDS to the intending emigrants in their pre-departure briefings.

Officials of the Ministry of Labour are providing in-country and overseas training on safe migration especially the issues relating to contractual arrangements and recognition of skills of migrant workers as well as on maximizing development benefits and minimizing adverse impacts, such as: loss of educational investment, skill depletion, social breakdown.

What else can you think of? All of the above and anything more that you dig out by way of research will give you a better context and therefore a better understanding of the issue, which, of course, will lead to informed reporting.

2. The Laws, Legislations and Policies

One of the key elements missing from reports on human rights and development issues is reference to the relevant laws. Be it health, education, environment or gender issues related to labour rights; educate yourself about the laws that govern these issues. Find out what are the constitutional rights of the labour, which attitudes classify as violations, which systems are in place to protect them. You also need to know which International conventions on that issue have been signed by the country. When you know both, you will also find out whether any gaps exist in the current system.

3. ILO Conventions and standards Pakistan has ratified

International labour standards are conventions that the international community agree are important to protect basic worker rights, enhance workers' job security, and improve their working conditions and terms of employment the world over. The standards aim to establish a worldwide minimum level of protection from inhumane labour practices through the adoption and implementation of these standards. They underscore the need for recognizing labour rights that are based on basic human rights universal to humankind.

ILO Conventions and Recommendations: International labour standards are legal instruments drawn up by the ILO's constituents (governments, employers and workers) and setting out basic principles and rights at work. They are either *conventions*, which are legally binding international treaties that may be ratified by member states, or *recommendations*, which serve as non-binding guidelines. Ratifying countries commit themselves to applying the convention in national law and practice and reporting on its application at regular intervals.

The Government of Pakistan has ratified a total of 34 ILO Conventions or standards, including the 8 core conventions. In the South Asian sub-region, Pakistan is the second country that has ratified all eight fundamental standards as enshrined in the ILO Declaration on Fundamental Principles and Rights at Work.

ILO's Decent Work Agenda: Productive employment and Decent Work are key elements to achieving a fair globalization and the reduction of poverty. The ILO has developed an agenda for the community of work. Putting the Decent Work Agenda into practice is achieved through four strategic pillars: job creation, rights at work, social protection and social dialogue, with gender equality as a crosscutting objective. Decent Work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.

3. Help media and journalists Identify the relevant authorities

This might seem like a no brainer, but the most high profile authority on labour might not be the one who is actually turning the wheels. Whichever development theme you are working on, you need to understand the government infrastructure managing it. Be it education, health, social protection, gender equality or any other labour theme, you need to know:

- Which ministry does the subject fall under
- Which key institutes/ organizations is the ministry working through
- Who are the decision makers in the ministry
- Is the bureaucracy involved? How does the government-bureaucratic relation play out?

4. Help media Identify the key Non-Governmental Players and Experts

All over the world, development NGOs, CSOs, development organizations and foundations etc. are playing a very important role in tackling development and human rights issues. The non-governmental organizations will not only help you understand the issue by providing researches and statistics, they will also serve as an invaluable link with relevant sources.

5. Know Your Focus

When you set out to report on development, do try to think about the purpose that story can serve.

- Will it create awareness?
- Will it educate?
- Will it make someone accountable?
- Does it correct a misconception?
- Is it drawing attention towards an aspect that has been ignored by the government and authorities?
- Is it inspirational? Is it motivating?
- Does it entertain?
- Or simply, does it do anything besides filling the news space?

News stories can serve one or multiple purposes or their sole purpose can be filling up the news space. Whichever the case, think proactively about the purpose behind you're the story you are chasing. That way, you might try and find news worthy angles in stories that would otherwise be useless fillers.

Read the Newspapers

Yes. Not staying up to date is a cardinal sin in journalism. As someone wanting to partner with media on rights and development themes, you have to read as much as you can on the subject, especially the news coverage. Try to read multiple papers; do not stick to the one you are associated with. See how your coverage compares with the others. Are there any new angles they are writing on? Do they have some interesting scoops that can give you news story ideas? Or is the coverage in other papers boring and repetitive? What could the reporter have done better? By critiquing stories done by others you are also developing a sense of what works and what doesn't; important lessons that can be applied to your own stories.

REFERENCES

1. Labour Policies of Pakistan announced in the years 1955, 1959, 1969, 2001, 2010
2. Existing Labour Laws: Mines Act 1923, Factories Act 1934. Dock Labourers Act 1934, Children (Pledging of Labour) Act 1933, Workman Compensation Act 1923, Payment of Wages Act 1936, Road Transport Workers Ordinance 1961, Minimum Wages Ordinance 1961, Minimum Wages for Unskilled Workers Ordinance 1969, Industrial and Commercial Employment (Standing Orders) Ordinance 1969, Industrial Relations Ordinance 1969, Industrial Relations Ordinance 2002, Industrial Relations Act 2008, Provincial Industrial Relations Acts 2010, Industrial Relations Act 2012, Provincial Security Ordinance 1969, Employees Old Age Benefits 1976, Workers Welfare Act 1971 etc.
3. Constitution of Islamic Republic of Pakistan 1973
4. ILO Constitution
5. Philadelphia Declaration
6. Report of ILO Sectoral Review Mission
7. Report of Task Force on Labour
8. International Labour Code
9. ILO Conventions
10. ILO Supervisory Mechanism
11. J.E. Dunlop, *Industrial Relations System* (Holt, New York, 1958)
12. Michael P. Jackson, *An Introduction to Industrial Relations*, R, London and New York
13. P.B.Beaumont Change in Industrial Relations
14. John MacIlroy Trade Unions in Britain Today
15. Trade Union Movement of Pakistan by Pakistan Workers Federation
16. H,A Clegg A New Approach to Industrial Relations
17. Internet connections

18.
